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FROM THE

ORIGINAL SOURCES

— OF —

EUROPEAN HISTORY.

ENGLISH MEDIAEVAL INSTITUTIONS

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TRANSLATIONS AND REPRINTS

FROM THE

ORIGINAL SOURCES OF EUROPEAN HISTORY.

VOL. IV. DOCUMENTS ILLUSTRATIVE OF FEUDALISM. NO. 3

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I. THE ORIGINS OF FEUDALISM, A.D. 500-1100.

Feudalism is the name given to that form and degree of organization and system in European society which existed at a period when there were no strong central governments, when there was no civil equality of persons, and no conception of absolute property in land. The absence of these institutions was more or less characteristic of all the countries of western Europe from the ninth to the fourteenth century. Any effort to illustrate such a condition of society by contemporary documents is necessarily somewhat fallacious, for Europe was above all else disorganized and anarchic, while formal documents always give an impression of order and regularity.

On the other hand such a mere dominion of force as has been spoken of, which certainly tended to exist when the more orderly conditions of the period of the Roman Empire and of the early barbarian monarchies had passed away, was limited in several respects. It was modified notably by personal alliances of lord and vassal, by praedial relations of landlord and tenant, by the exercise of many of the powers of government on their own lands by nobles one or more stages below the national ruler. A vast number of documents, edicts, formulas, and contemporary records illustrate this side of the growth of Feudalism. These documents show that from an early period both among the Romans and the barbarians a habit of forming voluntary personal agreements of protection on the one hand and service on the other between a superior and an inferior was prevalent; secondly, that

the definiteness of the legal Roman idea of private ownership of land was becoming blunted, and the communal idea of its ownership by the clan was being lost, so that they were both superseded by an ideal of beneficiary or undefined land holding, which was quite satisfied with the profitable superiority over the land by its lord and the practical use of it by its ultimate tenant, without raising the question of its actual ownership; and thirdly, that the power of local nobles and the connivance of the weak central government combined to place military, judicial, and even certain legislative and administrative powers in the hands of those whose only claim to them was that they were lords over vassals and holders of lands.

The documents in Part I, are intended to illustrate these three customs, which are commonly known respectively as commendation, the creation of beneficies, and the grant of immunities.

I. THE GROWTH OF PERSONAL DEPENDENCE.

1. AN ANGLO-SAXON FORMULA OF COMMENDATION.

Schmidt: Gesetze der Angelsachsen, p. 404. Anglo-Saxon.

Thus shall one take the oath of fidelity:

By the Lord before whom this sanctuary is holy, I will to N. be true and faithful, and love all which he loves and shun all which he shuns, according to the laws of God and the order of the world. Nor will I ever with will or action, through word or deed, do anything which is unpleasing to him, on condition that he will hold to me as I shall deserve it, and that he will perform everything as it was in our agreement when I submitted myself to him and chose his will.

2. A FRANKISH FORMULA OF COMMENDATION, SEVENTH CENTURY.

Rozière: Collection de Formules, No. XLIII, Vol. I, p. 69. Latin.

Who commends himself in the power of another:

To that magnificent lord *so and so*, I, *so and so*. Since it is known familiarly to all how little I have whence to feed and clothe myself, I have therefore petitioned your piety, and your good-will has decreed to me that I should hand myself over or commend myself to your guardianship, which I have thereupon done; that is to say in this way, that you should aid and succor me as well with food as with clothing, according as I shall be able to serve you and deserve it.

And so long as I shall live I ought to provide service and honor to you, suitably to my free condition; and I shall not during the time of my life have the ability to withdraw from your power or guardianship; but must remain during the days of my life under your power or defence. Wherefore it is proper that if either of us shall wish to with-

draw himself from these agreements, he shall pay *so many* shillings to his peer (*pari suo*) and this agreement shall remain unbroken.

Wherefore it is fitting that they should make or confirm between themselves two letters drawn up in the same form on this matter; which they have thus done.

3. ACCEPTANCE OF AN ANTRUSTION, SEVENTH CENTURY.

Rozière : Collection de Formules, No. VIII, Vol. I, p. 8. Latin.

It is right that those who offer to us unbroken fidelity should be protected by our aid. And since *such and such* a faithful one of ours, by the favor of God, coming here in our palace with his arms, has seen fit to swear trust and fidelity to us in our hand, therefore we decree and command by the present precept that for the future *such and such* above mentioned be counted with the number of the antrustions. And if anyone perchance should presume to kill him, let him know that he will be judged guilty of his wergild of 600 shillings.

4. CHARTER OF GUARDIANSHIP GRANTED BY THE KING. NINTH CENTURY.

Rozière : Collection de Formules, No. XIII, Vol. I, p. 14. Latin.

We wish it to be known to all our faithful, dwelling in the parts of Romania and Italy that certain men whose names are *such and such*, coming into our presence have begged and prayed us that on account of the injuries of evil men we should take them under the security of our protection, which we have done with willingness. On this account we have ordered this precept of our authority to be made and given to them; by which we require and command that no one of you take anything of their property from them against what is right, or presume to prosecute them in any cause unjustly; but it is allowed to them under our defence and protection and without opposition of any kind to live quietly on their own property. And if any causes shall have arisen against them which within their own country cannot be concluded without heavy and unreasonable expense, we will that these be suspended and reserved for our presence till they may receive a just and lawful final sentence, and let no one presume to deprive them of the opportunity of coming to us.

5. CAPITULARY CONCERNING FREEMEN AND VASSALS, A. D. 816.

M. G. LL, I, 196. Latin.

If anyone shall wish to leave his lord (*seniorem,*) and is able to prove against him one of these crimes, that is, in the first place, if the lord has wished to reduce him unjustly into servitude; in the second place, if he has taken counsel against his life; in the third place if the lord has committed adultery with the wife of his vassal, in the fourth place if he has wilfully attacked him with a drawn sword; in the fifth place, if the lord has been able to bring defence to his vassal after he has commended his hands to him, and has not done so; it is allowed to the vassal to leave him. If the lord has perpetrated anything against the vassal in these five points it is allowed the vassal to leave him.

6. CAPITULARY OF MERSEN, A. D. 847.

M. G. LL. I, 395. Latin.

We will moreover that each free man in our kingdom shall choose a lord, from us or our faithful, such a one as he wishes.

We command moreover that no man shall leave his lord without just cause, nor should any one receive him, except in such a way as was customary in the time of our predecessors.

And we wish you to know that we want to grant right to our faithful subjects and we do not wish to do anything to them against reason. Similarly we admonish you and the rest of our faithful subjects that you grant right to your men and do not act against reason toward them.

And we will that the man of each one of us[1] in whosoever kingdom he is, shall go with his lord against the enemy, or in his other needs unless there shall have been (as may there not be) such an invasion of the kingdom as is called a *landwer*, so that the whole people of that kingdom shall go together to repel it.

7. INSTANCES OF COMMENDATION FROM DOMESDAY BOOK, A. D. 1085.

The reference to most of these passages is due to Prof. F. W. Maitland, whose "*Domesday Book and Beyond*," has entirely transformed the study of early English Feudalism, as of so many other elements of English mediæval history. The same remark applies to Oswald's Grants, Document II, 2, p. 8.

[1] i. e. Lothar, Lewis and Charles.

In Greenwich were two free men, one commended to King Edward, the other to Girth.

Suffolk, i, 347.

In the borough[1] Roger has thirty-three men commended to him whom his predecessor held, in whom he had nothing except commendation.

Norfolk, i, 173.

In Wantage hundred the same bishop holds from the king one hide and a half, and Tori from him. The father of Tori held it in the time of King Edward, and was able to go whither he wished, but for his protection he committed himself to bishop Herman, and Tori similarly to bishop Osmund.

Berkshire, i, 58.

This land Edmund, a man of Earl Harold, held.

Hertfordshire, i, 133.

In Munehale a certain Englishman holds from Geoffrey three virgates, which he held as a free man in the time of King Edward; and in the time of King William he became the man of Geoffrey, of his own free will.

Essex, i, 62 b.

In Becham one free man holds by commendation from bishop Almar 80 acres of land.

Norfolk, i, 198 b.

In the borough there were 943 burghers in the time of King Edward. Of these the king has the whole custom. Of these men there were 36 so completely in the domain of King Edward that they were not able to be the men of any one without the license of the king. All the rest were able to be the men of any one, but the custom nevertheless remained to the king, except heriot.

Thetford, Norfolk, i, 186 b.

II. THE GROWTH OF DEPENDENT LAND TENURE.

I. GRANT OF LANDS TO A MONASTERY, AND THEIR RETURN AS A PRECARIA, SEVENTH CENTURY.

Rozière: Collection de Formules, No. CCCL, Vol. I, p. 433. Latin.

I, *such a one*, in the name of God. I have settled in my mind that

[1] Thetford.

I ought, for the good of my soul, to make a gift of something from my possessions, which I have therefore done. And this is what I hand over, in the district named *so and so*, in the place of which the name is *such and such*, all those possessions of mine which there my father left me at his death, and which as against my brothers or as against my co-heirs the lot legitimately brought me in the division; or those which I was able afterward to add to them in any way, in their whole completeness, that is to say the courtyard with its buildings, with slaves, houses, lands cultivated and uncultivated, meadows, woods, waters, mills, etc. These, as I have before said, with all the things adjacent or appurtenant to them I hand over to the church, which was built in honor of *such and such a saint* to the monastery which is called *so and so*, where *such and such* an abbott is acknowledged to rule regularly over God's flock; on these conditions, viz: That so long as life remains in my body, the possessions above described I shall receive from you as a benefice for usufruct, and the due payment I will make to you and your successors each year, that is *so and so much*. And my son shall have the same possessions for the days of his life only, and shall make the above named payment; and if my children should survive me they shall have the same possessions during the days of their life and shall make the same payment; and if God shall give me a son from a legitimate wife, he shall have the same possessions for the days of his life only, after the death of whom the same possessions with all their improvements shall return to your part to be held forever; and if it should be my chance to beget sons from a legitimate marriage, these shall hold the same possessions after my death, making the above named payment, during the time of their lives. If not, however, after my death, without tergiversation of any kind, by right of your authority, the same possessions shall revert to you to be retained forever. If any one, however, which I do not believe will ever occur, if I myself or any other person shall wish to violate the firmness and validity of this grant, the order of truth opposing him, may his falsity in no degree succeed; and for his bold attempt may he pay to the aforesaid monastery double the amount which his ill-ordered cupidity has been prevented from abstracting; and moreover let him be culpable to the royal authority for *such and such an amount* of gold; and, nevertheless, let the present charter remain inviolate with all that it contains, with the witnesses placed below.

Done in *such and such* a place, publicly, those who are noted below being present, or the remaining innumerable multitude of people.

In the name of God, I, abbott *so and so*, with our commissioned brethren. Since it is not unknown how you, *such and such a one*, by the suggestion of divine exhortation did grant to *such and such* a monastery, to the church which is known to be constructed in honor of *such and such a saint*, where we by God's authority exercise our pastoral care, all your possessions which you seemed to have in the district named, in the vill named, which your father on his death bequeathed to you there, or which by your own labor you were able to gain there, or which as against your brother or against *such and such* a co-heir, a just division gave you, with courtyard and buildings, gardens and orchards, with various slaves, *so and so* by name, houses, lands, meadows, woods, cultivated and uncultivated, or with all the dependencies and appurtenances belonging to it, which it would be extremely long to enumerate, in all their completeness; but afterwards, at your request, it has seemed proper to us to cede to you the same possessions to be held for usufruct; and you will not neglect to pay at annual periods the due *censum* hence, that is *so and so much*. And if God should give you a son by your legal wife, he shall have the same possessions for the days of his life only, and shall not presume to neglect the above named payment, and similarly your sons which you are seen to have at present, shall do for the days of their life; after the death of whom all the possessions above named shall revert to us and our successors perpetually. Moreover, if no sons shall have been begotten by you, immediately after your death, without any prejudicial contention, they shall revert to the rulers or guardians of the above named church, forever, Nor may any one, either ourselves or our successors, be successful in a rash attempt inordinately to destroy these agreements, but just as the time has demanded in the present *precaria*, may that be sure to endure unchanged which we, with the consent of our brothers, have decided to corroborate.

Done *in such and such a place*, in the presence of *so and so* and of others whom it is not worth while to enumerate. Seal of the same abbott, who has ordered this *precaria* to be made.

2. OSWALD'S GRANTS OF SUBJECT-LANDS, A. D., 970.

Kemble: Saxons in England, I, 517-19. Latin.

To my dearest lord Edgar, King of the English, I, Oswald, bishop of the church of Worcester, return thanks before God and men for all the gifts which by your clemency have been granted to me. Therefore,

if the mercy of God will allow, before God and men will I always remain faithful to you, remembering in my gratitude your abundant goodness, in granting to me that which I desired so deeply, and taking up my quarrel and that of the holy church of God. This you did through the aid and intervention of my spokesmen, the most reverend archbishop Dunstan, and the venerable Aethelwold, bishop of Winchester, and that magnificent man, Earl Brihtnoth; and in accordance with the counsel of his wise men and magnates decided it justly, and to the sustentation of the church which he graciously committed to me to rule. Wherefore, in what manner with the lands which were handed over to my power, I have endowed my dependents, for the space of life of three men, that is of two heirs after themselves, with the license and attestation of the same my lord king, it has pleased both myself and my helpers and counsellors to explain openly through the form of a chirograph to my brethren and successors, that is the bishops. They will thus know what ought justly to be required from them according to the agreement made with them and with their promise. I have also been careful to compose this letter by way of caution, lest any one in the future, instigated by wicked cupidity, and desiring to change this, should renounce the service of the church. So this agreement was made with them, the same my lord king approving and by his attestation corroborating and confirming the greatness of his munificence, all the wise men and magnates of his court attesting and consenting.

With this agreement I have conceded to them the lands of holy church to be held under me, that is that all the law of riding which pertains to *equites* should be fulfilled by them; and that they should fully perform all those things which justly belong to the right of the same church, that is to say those things which in English are called churchscot and toll (that is *theloneum*), and tac (that is *swinsceade*,) and other rights of the church, unless the bishop shall wish to pardon anything to any one of them; and they must, moreover, affirm with an oath that so long as they hold his lands they will continue humbly in all subjection to the commands of the bishop. Besides this, moreover, they shall provide themselves ready for every need of the bishop; they shall provide horses, they themselves shall ride; and for all the burning of lime for the need of the church and for the building of the bridge they shall be found ready; moreover they shall provide, of their own accord, for building the hunting lodge of the lord bishop, and shall turn their own spears to hunting whenever it shall please the lord bishop. Moreover,

for the many other occasions of need which the lord bishop often requires, either for his own service or to fulfill that to the king, they should always be subjected in all humility to the governance of that leader and to the will of whomsoever presides over the episcopal office, on account of the benefices which have been granted to them, according to his will and according to the quantity of lands which each one possesses.

When the aforesaid course of time shall have passed away, that is to say, the period of life of two heirs after those who now possess them, it shall rest with the judgment of the same bishop as to what he wishes, and whatever his will is, so it shall stand, either to retain these to his own need, if so he shall judge it is useful to him, or to grant them for a longer time to any one if it shall so seem good to him, so, nevertheless, that the service of the church shall always, as we have said above, be fully provided for.

But if any of those rights mentioned above shall have failed because of the crime of any one misrepresenting, let him atone for the crime of his misrepresentation according to the right of the bishop, or let him be deprived of that gift and land which he before had control of. If there should be any one, tempted by the devil, (as we should hope not) who, by means of our benefice, should attempt by fraud to deprive the church of God, either of its property or of its due service, let him be deprived of our benediction and of all blessing of God and his saints, unless by the most profound repentance, he hastens to correct it and restores to its original condition what he has defrauded it of; for it is written: "robbers and sacrilegious men shall not reach the kingdom of God." Now, however, for the sake of God and Holy Mary, in whose name this monastery is endowed, I advise and require that in no way should any one venture to wrest this, but as by us it has been established, as we have described above, so let it remain forever. He who keeps this let him be filled with all benediction; he, however, who infringes it let him be cursed by the Lord and all saints, Amen.

3. CHANGE FROM ALLODIAL TO FEUDAL HOLDING.

Quantin: Recueil de Pièces du XIII Siècle, No. 631, pp. 310-11. Latin.

This instance of the original entrance of a piece of land into feudal relations is of course at a date centuries after feudal tenure had become characteristic of most of the land of Europe, but it seems to be typical of conditions even at this late period, in the south of France. See discussion in Luchaire and in Boutaric.

To all who shall see the present letters, the Official of Auxerre, greeting. Let all know, that standing in presence William de la Forêt, knight, and Agnes, his wife, asserting firmly that they hold and possess in free allod the property noted below; viz: the arpent of vines, situated in the vineyard of Chablis, in the place which is called the Close, between the vines of William Berner, on the one side and the vines of the late Pariot, on the other, [1]. . . . . also all other things which they possessed and held in free allod, as they said, and still hold and possess within the boundaries of Chablis, of Chichiac, of Milli, of Ponche, of Bena and of Chapelle, the direct and hereditary holdings of the same Agnes wherever they may be within the same boundaries, and whatsoever; by their common consent and will, after previous deliberation they have placed altogether in the fee of the church of St. Martin of Tours, and in fee, for the future have wished to hold and possess firmly from the said church.

They promise, on their fealty offered by their bodies, that they hold and will hold the things aforesaid and expressed above, with all other things which they hold and possess within the said boundaries wherever they may be and whatsoever, for the future, from the said church in fee, and to the same church in future, by reason of the same property will provide feudal service as they ought to provide it, just as others holding in fee are accustomed to hold and are bound to give or provide.

Given A. D. 1267, Wednesday after the Ascension of the Lord.

III. PRIVATE JURISDICTIONS.

1. GRANT OF IMMUNITY FOR THE LANDS OF A BISHOPRIC.

Rozière: Recueil de Formules, No. XVI, Vol. I, p. 17. Latin.

We believe that it increases the great memorial of our realm, if with benevolent deliberation we concede opportune benefits to the places of the churches or to *any one you may name*, and under the protection of the Lord, write them down to endure in stability. Therefore, may your zeal know that we have seen fit upon petition to grant such a benefit, for our eternal reward, to that apostolic man, lord *so and so*, bishop of *such and such a city;* that in the vills of the church of that

[1] The charter continues to describe some 20 pieces of vineyard, meadow and arable land, certain houses, and rents in wine and grain, the property being situated apparently in six different villages.

lord, which in recent times, or in ours, or by the gift of any one, he is seen to have, or which in the future godly piety shall wish to amplify in the right of that holy place, no public judge shall at any time presume to enter for the hearing of causes or for the exaction of payments, but the prelate himself or his successors for the name of the Lord shall be able to rule over this under the name of a complete corporation. We require, therefore, that neither you nor your subordinates nor your successors nor any public judicial power should presume at any time to enter into the vills of the same church anywhere in our kingdom, either those granted by royal bounty or by that of private persons or those which shall in future be granted; either for the sake of hearing altercations or to exact fines for any causes, or to obtain sureties. But whatever the Treasury could expect either of fines or other things either from freemen or from servants and other nations who are within the fields or boundaries or dwelling upon the lands of the aforesaid church; by our indulgence for our future welfare, shall be profitable for the expenses of the same church by the hand of those ruling it, forever. And what we for the name of God and the remedy of our soul and that of our progeny who shall follow us have granted from full devotion, let not the royal sublimity, in the reckless cupidity of any of the judges be tempted to break. And, in order that the present authority may, by the aid of God, remain inviolate in present as in future times we have ordered this to be corroborated below by the subscription of our hand.

2. GRANT OF IMMUNITY TO A LAYMAN, SEVENTH CENTURY.

Rozière: Recueil de Formules, No. CXLVII. Vol. I, p. 185. Latin.

Therefore, may your greatness or perseverance know that we have seen fit to concede by our ready will to *such and such an* illustrious man, the vill named *so and so*, situated in *such and such* a district, completely with its whole proper boundary, as it has been possessed by *such and such a one* or by our treasury, or is possessed at this present time. Wherefore, by our present authority we have decreed what we command shall be kept forever, that the man aforesaid, *so and so*, should have conceded to him *such and such* a vill as we have said, in its entirety, with the lands, houses, buildings, villeins, slaves, vineyards, woods, fields, meadows, pastures, waters or watercourses, grist mills, additions, appurtenances, or any kind of men who are subjected to our treasury who dwell there; in entire immunity, and without the entrance

of any one of the judges for the purpose of holding the pleas of any kind of causes. Thus he may have, hold, and possess it in proprietary right and without expecting the entrance of any of the judges; and may leave the possession of it to his posterity, by the aid of God, from our bounty, or to whom he will; and by our permission he shall have free power to do whatever he may wish with it for the future. And in order that this authority may be held as more firm, we have decreed it to be corroborated below with our own hand.

3. ANGLO-SAXON GRANT OF IMMUNITY, A. D., 1053.

Thorpe: Diplomatarium Anglicum, p. 368. Anglo-Saxon.

Such grants as the following have not usually been recognized as grants of immunity, and our ignorance as to the exact significance of the Anglo-Saxon technical terms employed makes it impossible to decide the extent of the exemptions granted. But there seems to be no doubt that the result of such a grant was to give the recipients the right to all the profits of justice, and exemption from the intrusion of royal officials, and therefore inferentially the right and duty of holding courts and exercising other forms of jurisdiction. See Maitland: "*Domesday Book and Beyond*," especially Essay II, sect. 3.

I, King Edward, greet bishop Wulfwig and earl Gyrth and all my thanes in Oxfordshire amicably, and I make known to you that I have given to Christ and Saint Peter in Westminster, the village in which I was born, by name Islip, and a half-hide at Marsh, scot-free and rent free, with all the things which thereto belong, in wood and in field, in mead and in water, with church and with church socn, as full and as complete and as free as it stood in my own hand, and as Aelfgifu Emma, my mother, gave it to me at my birthday, as a first gift, and naturally bequeathed it. And I give them, moreover, sac and socn, toll and team, and infangenethe of and bloodwite and wardwite and hamsocn, and foresteal, grithbryce and mundbryce, and all the rights which to me belong. I now greet well my beloved kinsman at Wallingford, and I enjoin thee that thou in my stead deliver that land into the possession of the saint, for I will on no account allow that any man have any authority there, in any thing or at any times, except the abbot and the brethren, for the monastery's necessary requirements. And whoso shall faithfully hold this alms may God and God's mother hold him in everlasting bliss. And whoso shall turn it aside, be he turned aside from God to the rigid tortures of hell's inmates, unless he in this earth the more rigidly make amends. God and St. Peter's favor preserve you.

4. FROM THE CAPITULARY OF KIERSEY, A. D., 877.

M. G., LL., Vol. I, p. 542. Latin.

If a count of this kingdom, whose son is with us, shall die, our son with the rest of our faithful shall appoint some one of the nearest relatives of the same count, who, along with the officials of his province and with the bishop in whose diocese the same province is, shall administer that province until announcement is made to us, so that we may honor his son who is with us with his honors.

If, however, he had a minor son, this same son, along with the officials of that province and with the bishop in whose diocese it is, shall make provision for the same province until the notice of the death of the same count shall come to us, that his son may be honored, by our concession, with his honors.

If, however, he had no son, our son along with the rest of the faithful, shall take charge, who, along with the officials of the same province and with the proper bishop shall make provision for the same province until our order may be made in regard to it. Therefore, let him not be angry who shall provide for the province if we give the same province to another whom it pleases us, rather than to him who has so far provided for it.

Similarly also shall this be done concerning our vassals. And we will and command that as well the bishops as the abbots and the counts, and any others of our faithful also, shall study to preserve this toward their men.

II. FEUDAL INSTITUTIONS, A. D. 1100-1400.

The relation of lord and vassal, the engagements between lord and tenant, and the feudal possession of political powers, as time passed on, obtained a greater amount of fixedness and uniformity. That is to say, there came to be well-defined feudal institutions in existence. Moreover, in local tradition, in documentary formulas, in charters issued by kings or great feudal lords, and finally in legal treatises, such as the *Coutumiers* of various French provinces, the *Sachsenspiegel*, or the *Libri Feudorum*, there grew up a body of established feudal law or custom which could be appealed to as authoritative. Thus by the thirteenth century Feudalism, as far as it extended, was a tolerably regular system. But by this time also many non-feudal influences were already growing in strength. The centralized monarchies, city life, the system of national estates, commerce, manufactures, money capital, were increasing in influence while feudal institutions were both absolutely and relatively losing in importance. Feudalism therefore merely bridges over the chasm lying between one set of orderly institutions, those of the

Roman Empire and the early barbarian monarchies, and another, those of the reviving national monarchies of the thirteenth and subsequent centuries. The documents in Part II are intended to illustrate feudal institutions as they took shape in the twelfth and thirteenth centuries.

I. GRANTS AND ACKNOWLEDGMENTS OF FIEFS.

1. ACKNOWLEDGMENT OF FEUDAL TENURE, A. D. 1220.

Quantin, Recueil de Pièces du XIII Siècle No. 264, p. 116. Latin.

I, Guy, lord of Maligny, make known to all who shall see this present letter that I hold from the count of Champagne, the chateau of Maligny, and the manors which are subject to the jurisdiction of and liable to revert to the same count at small and great force, and the knights' fees which are held from Maligny, and whatever I have at La Chapelle, near Maligny, and whatever I have at Beine, except Henry and his family, and Sir Guy of Montreal, and whatever I have at Chablis, which is in the name of my wife. And that this may be known for the future I have strengthened the present letter with the support of my seal. Given in the year of grace 1220, in the month of February.

2. GRANT OF A FIEF, A. D., 1200.

Quantin: Recueil de Pièces du XIII Siècle, No. 2. Latin.

I, Thiebault, count palatine of Troyes, make known to those present and to come that I have given in fee to Jocelyn d'Avalon and his heirs the manor which is called Gillencourt, which is of the castellanerie of La Ferte sur Aube; and whatever the same Jocelyn shall be able to acquire in the same manor I have granted to him and his heirs in augmentation of that fief. I have granted, moreover, to him that in no free manor of mine will I retain men who are of this gift. The same Jocelyn, moreover, on account of this has become my liege man, saving however, his allegiance to Gerard d'Arcy, and to the lord duke of Burgundy, and to Peter, count of Auxerre. Done at Chouaude, by my own witness, in the year of the Incarnation of our Lord 1200 in the month of January. Given by the hand of Walter, my chancellor; note of Milo.

3. GRANT OF A FIEF, A. D., 1167.

Brussel: Usage des Fiefs, I, 3, note. Latin.

In the name of the Holy and Undivided Trinity, Amen. I, Louis, by the grace of God, king of the French, make known to all present as

well as to come, that at Mante in our presence, Count Henry of Champagne conceded the fief of Savigny to Bartholomew, bishop of Beauvais, and his successors. And for that fief the said bishop has made promise and engagement for one knight and justice and service to Count Henry; and he has also agreed that the bishops who shall come after him will do likewise. In order that this may be understood and known to posterity we have caused the present charter to be corroborated by our seal; done at Mante, in the year of the Incarnate Word 1167; present in our palace those whose names and seals are appended: seal of count Thiebault, our steward; seal of Guy, the butler; seal of Matthew, the chamberlain; seal of Ralph, the constable. Given by the hand of Hugh, the chancellor.

4. FEUDAL HOLDINGS IN ENGLAND, A. D. 1166.

Red Book of the Exchequer, Rolls Series, Vol. I, pp. 246, 342, 312, 313. Latin.

In 1166 an order seems to have been sent out from the royal Exchequer in England requiring all tenants-in-chief to make formal report to the king of the number and names of the subtenants who had been enfeoffed on their lands previous to 1135, of those subsequently, and of the number they owed to the king from their lands in addition to these military subtenants. The returns to this summons, which give exceedingly valuable information for the military side of feudalism, are preserved in the "Red Book of the Exchequer," lately published in the Rolls Series, and interpreted by Mr. J. H. Round in his work entitled "*Feudal England*," especially pp. 236 ff.

To his dearest lord Henry, by the grace of God king of the English, William of London, greeting:

Know that I have no knight enfeoffed of old or recently, but I ought to defend my fief with the service of my body.

To Henry, by the grace of God king of the English, Peter de Mare, greeting:

Let it be known to you that I hold Lavington, by your grace, in domain, for the service of two knights. But I have no knight enfeoffed there, either by old or recent feoffment.

To Henry, king of the English, duke of the Normans and Aquitanians, and count of the Angevins, Roger de Burun, greeting:

Concerning my knights in the time of king Henry, know this to be true: W. de Heriz holds two knights' fees; Roger de Cordingestoke two knights' fees; Patrick de Rosel, one knights' fee; and Albert, whom my father enfeoffed after the death of king Henry, one knights' fee. And I myself fulfill the service of four knights from my domain.

Earl Walter Giffard[1] had these knights enfeoffed in old feoffment; Hugh Bolebeche owed the earl the service of twenty knights; Geoffrey Fitz-William, of twenty-seven knights; Manasser Bisset, of one knight; William de Saukeville, of one knight; Hugh de Noers, of one knight; Gerard de Granville, of three knights; Wido de Rocheford, of three knights; Richard Talbot, of two knights; William Passeleue, of three knights; William Buteri, of five knights; Peter Corbuzone, of five knights; Richard Fitz-Mabel, of four knights; Gerard de Reddenham, of two knights; Walter de Weston, of two knights; Jordan de Belnair, of two knights; Pagan de Dertone, of one knight; Henry de Oyli, of one knight; Hugh de Cresi, of one knight; Elias Giffard, of two knights. Robert de Neville, of one knight; Ralph de Lucinton, of one knight; Matilda de Bec, of one knight; the son of William Fitz-Roger, of one knight; Hamo Fitz-Bener, of half a knight; Roger de St. Faith, of half a knight; Robert de Bedford, of half a knight; Sawalle de Crendon, of half a knight, supported by the earl; Gerard de Bodingham, of half a knight; Alan de Bodingham, of half a knight; Adam de St. Lawrence, of half a knight: Richar de Witewelle, of half a knight; Richard Makerel, of half a knight. Of recent feoffment, Hugh de Millville has the fee of half a knight; William Cokerel, of half a knight; William de Bureville, of half a knight.

5. GRANT OF A FIEF OF MONEY, A. D., 1380.

Boutaric; Institutions Militaires de la France, p. 121. Latin.

We, Regnault de Fauquemont, knight, lord of Bournes and of Sitter, make known to all by these presents, that we have become liege man of the king of France, our lord, and to him have made faith and homage because of 1000 livres of Tours of income which he has given to us during our life, to be drawn from his treasury at Paris. And we have promised to him and do promise by these presents to serve him loyally and well in his wars and otherwise against all who can live and die, in the form and manner in which a good and loyal subject ought to serve his sovereign lord. In testimony of which we have put our seal to these present letters. Given at Paris, the 15th day of June, the year 1380.

[1] Earl of Buckinghamshire.

II. THE CEREMONY OF HOMAGE AND FEALTY.

1. HOMAGE AND FEALTY TO COUNT OF FLANDERS, A. D., 1127.

Galbert de Bruges, Chronicle of the Death of Charles the Good, Ed. by Pirenne, p. 89. Latin.

Through the whole remaining part of the day those who had been previously enfeoffed by the most pious count Charles, did homage to the count, taking up now again their fiefs and offices and whatever they had before rightfully and legitimately obtained. On Thursday the seventh of April, homages were again made to the count being completed in the following order of faith and security.

First they did their homage thus, the count asked if he was willing to become completely his man, and the other replied, "I am willing"; and with clasped hands, surrounded by the hands of the count, they were bound together by a kiss. Secondly, he who had done homage gave his fealty to the representative of the count in these words, "I promise on my faith that I will in future be faithful to count William, and will observe my homage to him completely against all persons in good faith and without deceit," and thirdly, he took his oath to this upon the relics of the saints. Afterward, with a little rod which the count held in his hand, he gave investitures to all who by this agreement had given their security and homage and accompanying oath.

2. CHARTER OF HOMAGE AND FEALTY, A. D., 1110.

Teulet: Layettes du Trèsor des Chartes, No., 39, Vol. I, p. 36. Latin.

In the name of the Lord, I, Bernard Atton, Viscount of Carcassonne, in the presence of my sons, Roger and Trencavel, and of Peter Roger of Barbazan, and William Hugo, and Raymond Mantellini, and Peter de Vietry, nobles, and of many other honorable men, who had come to the monastery of St. Mary of Grasse, to the honor of the festival of the august St. Mary; since lord Leo, abbot of the said monastery, has asked me, in the presence of all those above mentioned, to acknowledge to him the fealty and homage for the castles, manors, and places which the patrons, my ancestors, held from him and his predecessors and from the said monastery as a fief, and which I ought to hold as they held, I have made to the lord abbot Leo acknowledgment and homage as I ought to do.

Therefore, let all present and to come know that I the said Ber-

nard Atton, lord and viscount of Carcassonne, acknowledge verily to thee my lord Leo, by the grace of God, abbot of St. Mary of Grasse, and to thy successors that I hold and ought to hold as a fief, in Carcassonne, the following: that is to say, the castles of Confoles, of Leocque, of Capendes, (which is otherwise known as St. Martin of Sussagues); and the manors of Mairac, of Albars and of Musso; also, in the valley of Aquitaine, Rieux, Traverina, Hérault, Archas, Servians, Villatritoes, Tansiraus, Presler, Cornelles. Moreover, I acknowledge that I hold from thee and from the said monastery as a fief the castle of Termes in Narbonne; and in Minerve the castle of Ventaion, and the manors of Cassanolles, and of Ferral and Aiohars; and in Le Rogès, the little village of Longville; for each and all of which I make homage and fealty with hands and with mouth to thee my said lord abbot Leo and to thy successors, and I swear upon these four gospels of God that I will always be a faithful vassal to thee and to thy successors and to St. Mary of Grasse in all things in which a vassal is required to be faithful to his lord, and I will defend thee, my lord, and all thy successors, and the said monastery and the monks present and to come and the castles and manors and all your men and their possessions against all malefactors and invaders, at my request and that of my successors at my own cost; and I will give to thee power over all the castles and manors above described, in peace and in war, whenever they shall be claimed by thee or by thy successors.

Moreover I acknowledge that, as a recognition of the above fiefs, I and my successors ought to come to the said monastery, at our own expense, as often as a new abbot shall have been made, and there do homage and return to him the power over all the fiefs described above. And when the abbot shall mount his horse I and my heirs, viscounts of Carcassonne, and our successors ought to hold the stirrup for the honor of the dominion of St. Mary of Grasse; and to him and all who come with him, to as many as two hundred beasts, we should make the abbot's purveyance in the borough of St. Michael of Carcassonne, the first time he enters Carcassonne, with the best fish and meat and with eggs and cheese, honorably according to his will, and pay the expense of the shoeing of the horses, and for straw and fodder as the season shall require.

And if I or my sons or their successors do not observe to thee or to thy successors each and all the things declared above, and should come against these things, we wish that all the aforesaid fiefs should by that

very fact be handed over to thee and to the said monastery of St. Mary of Grasse and to thy successors.

I, therefore, the aforesaid lord Leo, by the grace of God, abbot of St. Mary of Grasse, receive the homage and fealty for all the fiefs of castles and manors and places which are described above; in the way and with the agreements and understandings written above ; and likewise I concede to thee and thy heirs and their successors, the viscounts of Carcassonne, all the castles and manors and places aforesaid, as a fief, along with this present charter, divided through the alphabet. And I promise to thee and thy heirs and successors, viscounts of Carcassonne, under the religion of my order, that I will be good and faithful lord concerning all those things described above.

Moreover, I, the aforesaid viscount, acknowledge that the little villages of Cannetis, Maironis, Villamagna, Aiglino, Villadasas, Villafrancos, Villadenz, Villaudriz, St. Genèse, Gauart, Conguste and Mata, with the farm-house of Mathus and the chateaux of Villalauro and Claromont, with the little villages of St. Stephen of Surlac, and of Upper and Lower Agrifolio, ought to belong to the said monastery, and whoever holds anything there holds from the same monastery, as we have seen and have heard read in the privileges and charters of the monastery, and as was there written.

Made in the year of the Incarnation of the Lord 1110, in the reign of Louis. Seal of Bernard Atton, viscount of Carcassonne, seal of Raymond Mantellini, seal of Peter Roger of Barbazon, seal of Roger, son of the said viscount of Carcassonne, seal of Peter de Vitry, seal of Trencavel, son of the said viscount of Carcassonne, seal of William Hugo, seal of lord abbot Leo, who has accepted this acknowledgment of the homage of the said viscount.

And I, the monk John, have written this charter at the command of the said lord Bernard Atton, viscount of Carcassonne and of his sons, on the day and year given above, in the presence and witness of all those named above.

3. LEGAL RULES FOR HOMAGE AND FEALTY.

Etablissements de St. Louis, II. c. 19. Ed. by Viollet, Vol. II, pp. 395, ff. Old French.

If any one should hold from a lord in fee, he ought to seek his lord within forty days, and if he does not do it within forty days the

lord may and ought to seize his fief for default of homage, and the things which should be found there he should seize without return, and yet the vassal would be obliged to pay to his lord the redemption. When any one wishes to enter into the fealty of a lord, he ought to seek him, as we have said above, and should say as follows: "Sir, I request you as my lord, to put me in your fealty and in your homage for such and such a thing situated in your fief, which I have bought." And he ought to say from what man, and this one ought to be present and in the fealty of the lord; and whether it is by purchase or by escheat or by inheritance he ought to explain; and with his hands joined, to speak as follows: "Sir, I become your man and promise to you fealty for the future as my lord towards all men who may live or die, rendering to you such service as the fief requires, making to you your relief as you are the lord." And he ought to say whether for guardianship, or as an escheat, or as an inheritance or as a purchase.

The lord should immediately reply to him: "And I receive you and take you as my man, and give you this kiss as a sign of faith, saving my right and that of others," according to the usage of the various districts.

And the lord may take the revenues and the products of the year, if the relief is not paid to him, and also money rents. But no one makes money payments for a guardianship, or for a dowry, or for a partition, or for a report of the extent of the fief, according to the usages of various districts; except in the one case that the one who holds in guardianship ought to give security to the parties that when the child shall come of age the one who has the guardianship, will do it at his own expense and at his cost, and will guarantee the socage tenants for any payments. It is thus in the case of a fief, but in villenage there is no guardianship.

III. SUB-INFEUDATION.

1. FROM THE ENGLISH EXCHEQUER ROLLS, A. D., 1254.

Madox: History of the Exchequer, p. 415. Latin.

Commandment is given to the sheriff of Worcester, that if Baldwin de Frivill does not hold from the king *in capite*, but from Alexander de Abetot, and Alexander from William de Beauchamp, and William from the bishop of Worcester, and the bishop from the king *in capite*, as the same Baldwin says; then the said Baldwin is to have peace from the distraint which has been made upon him for the aid to make the king's son a knight.

2. FROM THE ENGLISH HUNDRED ROLLS, A. D., 1279.

Rotuli Hundredorum, II, 862, 673, and 681 ff. Latin.

Robert de Romeny holds one knight's fee in the vill of Steepleton for homage and his service from William de Leybourne, and he shall pay scutage, when it runs, for one shield, viz: forty shillings; and William de Leybourne holds from the countess of Albemarle, and the countess from the lord king *in capite.*

Roger of St. Germain holds one messuage from Robert of Bedford on the service of paying 3d. to the aforesaid Robert, from whom he holds and of paying 6d. to Richard Hylchester in place of the said Robert, who holds from him. And the said Richard holds from Alan de Chartres, and pays him 2d. a year and Alan from William the Butler, and the same William from lord Gilbert de Neville, and the same Gilbert from the lady Devorguilla de Balliol, and Devorguilla from the king of Scotland, and the same king from the king of England.

Sir Adam de Cretinges holds and accounts in the vill of Stoughton, for four knights' fees from the bishop of Lincoln, and the bishop from the king. The same Adam holds by homage and scutage, when it runs, and has in demesne 13 score acres of arable land and 3 messuages of 2 acres, and 40 acres of woods and 7 acres of meadow and 10 acres of separable pasture.

11 villeins, each with a virgate of 20 acres, a house, and some meadow, and each performing certain weekly works, ploughing, etc.

16 cottars, each with a cottage and a rood of land, and each paying 12 d. a year and performing certain labor.

1 cottar with a half acre, and 2 with houses only.

Sir Anselm de Gyse holds and accounts for two knights' fees, from the same Adam for half a mark a year and for scutage when it happens; and he has in his garden, with a house and vineyard, 6 acres of land; and of arable land 13 score acres, and in meadows 7 acres, and in separable pasture 10 acres and in woods 8 acres.

6 villeins, each with 20 acres, etc., as above.

The prior of Bissemede holds one knight's fee from the said Anselm and pays to him scutage when it happens. The same prior has in his garden with the house 8 acres, and 5 score acres of arable land, and 8 acres of woods and 8 acres of meadow, and 6 acres of separable pasture.

5 free tenants with a total of 63¼ acres of arable land, etc.

3 villeins with a total of 1¼ virgates.

5 cottars each with a cottage.

Geoffrey, son of Everard of Stoughton holds half a knight's fee from the said Anselm for homage and foreign service, and has in demesne 6 score acres of arable land, and in garden with a messuage one acre and a half and 4 acres of woods and 2 acres of separable pasture.

1 free holder with 6 acres.

William Schohisfoot holds the twelfth part of one knight's fee from the aforesaid Anselm for homage and foreign service, and has in garden with the house one acre and a half, and in arable land 20 acres, and 3 acres of meadow; and he ought to have common with his beasts in the meadow which is called Mora.

William Dingle holds from the said William one acre and a half of land, and pays annually 1 d.

Various free and villein tenants holding immediately and mediately from Sir Adam de Cretinges.

IV. MUTUAL DUTIES OF VASSALS AND LORDS.

1. LETTER FROM BISHOP FULBERT OF CHARTRES, A. D., 1020.

Recueil des Hist. des Gaules et de la France, X, 463. Latin.

To William most glorious duke of the Aquitanians, bishop Fulbert the favor of his prayers.

Asked to write something concerning the form of fealty, I have noted briefly for you on the authority of the books the things which follow. He who swears fealty to his lord ought always to have these six things in memory; what is harmless, safe, honorable, useful, easy, practicable. Harmless, that is to say that he should not be injurious to his lord in his body; safe, that he should not be injurious to him in his secrets or in the defenses through which he is able to be secure; honorable, that he should not be injurious to him in his justice or in other matters that pertain to his honor; useful, that he should not be injurious to him in his possessions; easy or practicable, that that good which his lord is able to do easily, he make not difficult, nor that which is practicable he make impossible to him.

However, that the faithful vassal should avoid these injuries is proper, but not for this does he deserve his holding; for it is not sufficient to abstain from evil, unless what is good is done also. It remains, therefore, that in the same six things mentioned above he should faithfully counsel and aid his lord, if he wishes to be looked upon as worthy of his benefice and to be safe concerning the fealty which he has sworn.

The lord also ought to act toward his faithful vassal reciprocally in all these things. And if he does not do this he will be justly considered guilty of bad faith, just as the former, if he should be detected in the avoidance of or the doing of or the consenting to them, would be perfidious and perjured.

I would have written to you at greater length, if I had not been occupied with many other things, including the rebuilding of our city and church which was lately entirely consumed in a great fire; from which loss though we could not for a while be diverted, yet by the hope of the comfort of God and of you we breathe again.

2. FROM AN ENGLISH CODE OF THE TWELFTH CENTURY.

Leges Henrici, LXXXII, 3, 4 : Thorpe : Anc. Laws and Inst. I, 590. Latin.

And it is allowable to any one, without punishment, to support his lord, if any one assails him, and to obey him in all legitimate ways, except in theft, murder, and in all such things as are not conceded to any one to do and are reckoned infamous by the laws.

The lord ought to do likewise equally with counsel and with aid; and he may come to his man's assistance in his vicissitudes in all ways, without forfeiture.

V. AUTHORITY OF THE LORD OVER THE MARRIAGES OF VASSALS.

1. ACKNOWLEDGMENT OF COUNTESS OF NEVERS, A. D., 1221.

Quantin, Recueil de Pièces du XIII Siècle, No. 274, p. 120. Latin.

I, Matilda, countess of Nevers make known to all who shall see this present letter, that I have sworn upon the sacred gospels to my dearest lord, Philip, by the grace of God, the illustrious king of France, that I will do to him good and faithful service against all living men and women, and that I will not marry except by his will and grace. For keeping these agreements firmly I have given pledges to the same lord king from my men whom I had with me, on their oaths, in this wise, that if I should fail to keep the said agreements with the lord king, (though this shall not be), these are held to come to the lord king with all their lands and fiefs which are held from me, and shall take their oaths to him against me until it shall have been made good to him to his satisfaction. And whenever the lord king shall ask me I will cause

him to have similar oaths from my men who were not present with me before the lord king, that is to say from all whom I may have, in good faith, and without evil intention, and similarly the fealty of my town. And in order that this may remain firm and stable, I have written the present letters supported by my seal. Given at Melun, in the year of the Lord 1221, in the month of February.

2. FROM THE CHRONICLE OF LAMBERT OF WATERLOO, A. D. 1151.

Rec. des Hist. des Gaules et de la France, XIII, p. 506. Latin.

Then the young man Aegidius, son of Gerard Maufilatre[1] married a wife, Bertha by name, half-sister of Count Baldwin of Hainault and took her without his assent. The count, extremely angry at this, immediately took up arms against him at the beginning of the month of October. Thus from the time in which he had married her till Whitsunday, with or without consent, he kept her closely by force and arms at his house. But Aegidius having been attacked by a severe fever, which troubled him sharply every day, compelled by the counsel of his friends, who had helped him honorably in all things in his war, dismissed and openly abjured her; and peace was thus restored with the count, and the land was peaceful which had been long troubled by wars.

3. FEES FOR LICENSE TO MARRY, A. D. 1140-1282.

Eng. Exchequer Rolls; Madox: Hist. of Exchequer, pp. 320, 322.

Ralph son of William owes 100 marks as a fine, to be allowed to marry Margery who was wife of Nicholas Corbet who held of the king *in capite*, and that the same Margery may be allowed to marry him.

Walter de Cancy renders account of £15 to be allowed to marry a wife as he shall choose.

Wiverona wife of Iverac of Ipswich renders account of £4 and 1 mark of silver that she may not have to take any husband except the one she wishes.

Emma de Normanville and Roheisa and Margaret and Juliana, her sisters, render account of 10 marks for license to marry where they wish.

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[1] Hereditary steward of Hainault and a vassal of the count.

Roheisa de Doura renders account of £450 to have half of all the lands which belonged to Richard de Lucy, her grandfather, and which the brother of the same Roheisa had afterward as well in England as in Normandy, and for license to marry where she wishes so long as she does not marry herself to any of the enemies of the king.

Alice, countess of Warwick, renders account of £1000 and 10 palfreys to be allowed to remain a widow as long as she pleases, and not to be forced to marry by the king. And if perchance she should wish to marry, she shall not marry except with the assent and on the grant of the king, where the king shall be satisfied ; and to have the custody of her sons whom she has from the earl of Warwick her late husband.

Hawisa, who was wife of William Fitz Robert renders account of 130 marks and 4 palfreys that she may have peace from Peter of Borough to whom the king has given permission to marry her; and that she may not be compelled to marry.

Geoffrey de Mandeville owes 20,000 marks to have as his wife Isabella, countess of Gloucester, with all the lands and tenements and fiefs which fall to her.

VI. WARDSHIP, RELIEF, AND AIDS.

I. WARDSHIP.

English Exchequer Rolls ; Madox : History of the Exchequer, pp. 221, 222.

Thomas de Colville renders an account of 100 marks for having the custody of the sons of Roger Torpel and their land until they come of age.

William, bishop of Ely, owes 220 marks for having the custody of Stephen de Beauchamp with his inheritance and for marrying him where he wishes.

William of St. Mary's church, renders an account of 500 marks for having the custody of the heir of Robert Young, son of Robert Fitzharding, with all his inheritance and all its appurtenances and franchises; that is to say with the services of knights and gifts of churches and marriages of women, and to be allowed to marry him to whatever one of his relatives he wishes; and that all his land is to revert to him freely when he comes of age.

Bartholomew de Muleton renders an account of 100 marks for having the custody of the land and the heiress of Lambert of Ibtoft, and for marrying the wife of the same Lambert to whomsoever he wishes

where she shall not be disparaged and that he may be able to confer her (the heiress) upon whom he wishes.

2. RELIEF, FROM THE ENGLISH EXCHEQUER ROLLS, A. D. 1140-1230.

Madox: History of the Exchequer, pp. 216, 218. Latin.

Walter Hait renders an account of 5 marks of silver for the relief of the land of his father.

Walter Brito renders an account of £66, 13s. and 4d. for the relief of his land.

Richard of Estre renders an account of £15 for his relief for 3 knights' fees which he holds from the honor of Mortain.

Walter Fitz Thomas, of Newington, owes 28s. 4d. for having the fourth part of one knights' fee which had been seized into the hand of the king for default of relief.

John of Venetia renders an account of 300 marks for the fine of his land and for the relief of the land which was his father's and he does homage to the king against all mortals.

Ralph, son and heir of Ralph of Sullega renders an account of 100£ for his relief for the lands which were Ralph his father's which he held from the king *in capite*.

John de Balliol owes £150 for the relief of 30 knights' fees which Hugh de Balliol his father held from the king *in capite*, that is 100s. for each fee.

Peter de Bruce renders an account of £100 for his relief for the barony which was of Peter his father.

3. ACKNOWLEDGMENT OF RELIEF, A. D. 1238.

Teulet: Layettes du Trésor des Chartes, No. 2777, Vol. 2, p. 401. Latin.

To all to whom the present writing shall come the nobleman Aimeric, viscount of Châtelherault, greeting. Know that I am held to pay to John de Vineis, bailiff of the lord king, for the *rachat* and relief of the viscounty of Châtelherault 1500 livres of Tours, to be paid to him in the place of the lord king, that is to say, at the coming Ascension 500 livres, and at the feast of All Saints next following 500 livres and at the Purification next following 500 livres. And unless I make complete satisfaction for the said money at the said dates, I agree that he shall seize all my land and all my rents and even my personal property, wherever they may be, until I shall have given complete satisfaction for the above debt.

For the fuller testimony and security of which I have confirmed the present writing with my seal. Given A. D. 1238, in the month of February.

4. THE THREE CUSTOMARY AIDS.

(a) Le Grand Coutumier de Normandie, c. 35 ; Bourdot ; Nouveau Coutumier Général, Vol. IV, p. 18. Old French.

Next it is proper to see the chief aids of Normandy, which are called chief because they should be paid to the chief lords.

In Normandy there are three chief aids. One is to make the oldest son of his lord a knight; the second, to marry his oldest daughter; the third to ransom the body of his lord from prison when he is taken in the Duke's war.

(b) Madox ; History of the Exchequer, pp. 415, 398, 411, notes. Latin.

Aid granted to the king (Henry III.) for the knighting of his eldest son, that is to say from each fee 40s.. The sheriff (of Hereford) renders account of 40s. from John de Balun for one fee, and of £30 from John de Munemul for fifteen fees; the bishop of Hereford renders account of £30 for fifteen fees.

The earl of Clare renders account of £94, 11s. 10d. for the aid for the daughter of the king, for 131 knights and two-thirds of a knight, and a third and a fourth and an eighth and a ninth and a tenth of a knight, and two-thirtieths of a knight of his fee; and for nine knights and the fourth part of a knight of the fee of the countess, his wife.

The abbot of St. Edmund's renders account of 40 marks for the same aid for 40 knights whom he acknowledges he owes to the king.

Of the scutage of knights for the ransom of the lord king. Constance, countess of Brittany, renders account of 140 knights whom Thomas of Borough, steward of the same countess acknowledges before the barons to pertain to the honor of the count of Brittany in England.

VII. MILITARY SERVICE OF TENANTS.

1. AN EARLY FEUDAL SUMMONS, PROBABLY, A. D. 1072.

Quoted in J. H. Round: Feudal England, p. 304. Latin.

W. king of the English to Aethelwig, abbot of Evesham, greeting. I command you to summon all those who are under your charge and jurisdiction to have armed before me by the week after Whitsunday, at Clarendon all the knights which are due to me. And do you also

come to me on that day and bring with you armed those five knights which you owe to me from your abbey. Witness Eudo, the steward, at Winchester.

2. GRANT BY AN ABBOT TO A KNIGHT, A. D. 1100.

Historia Monasterii de Abingdon, R. S. Vol. II, p. 135. Latin.

Abbot Faritius also granted to Robert, son of William Mauduit, the land of four hides in Weston which his father had held from the former's predecessor, to be held as a fief. And he should do this service from it, to wit: that whenever the church of Abingdon should perform its knight's service he should do the service of half a knight for the same church; that is to say in castle ward, in military service beyond and on this side the sea, in giving money in proportion to the knights on the capture of the king, and in the rest of the services which the other knights of the church perform. He also does homage to the same abbot. This land previously did the service of three weeks yearly only.

3. MILITARY HOLDINGS IN ENGLAND, A. D. 1279.

Rotuli Hundredorum: Vol. II, pp. 711, 710. Latin.

The jurors say that Robert Fitz Nigel holds the manor of Iftele in chief from the king for doing the service of one knight's fee in the service of the lord king when he is in the army, at his own cost, and afterward, if he shall be required, at the cost of the lord king.

The manor of Hedington with its hamlets and all its appurtenances is of the ancient demesne of the crown of the lord king and is held in chief from the lord king for £20, at the two terms of the year, to be paid to the Exchequer of the lord king, that is to say, at Easter £10 and at Michaelmas £10. And Hugh de Plesens is feudatory of the lord king, since he is responsible to him for one knight's fee when scutage runs, or he must go with the lord king when he is in the army and serve him for forty days at his own cost, for the aforesaid manor, and if he makes a longer stay, at the expense of the lord king. . . . . Hugh de Plesens holds the manor of Hedington.

4. ACKNOWLEDGMENT OF MILITARY DUTY, A. D. 1212.

Quantin: Rec. de Pièces du XIII Siècle, No. 116, p. 53. Latin.

William, by the grace of God bishop of Auxerre to all who shall

see these presents, greeting in the Lord. Know that we acknowledge that we owe to our lord Philip, illustrious king of the French, military service, as is the common service of bishops and barons; and this for the future we will perform through our knights, as others. For the same lord king has released our person from the service of the army so long as we live.

5. ETABLISSEMENTS DE ST. LOUIS, A. D 1270.

Livre I, ch. 65; Ed. by Viollet, Vol. II, p. 95. Old French.

The baron and all vassals of the king are bound to appear before him when he shall summon them, and to serve him at their own expense for forty days and forty nights, with as many knights as each one owes; and he is able to exact from them these services when he wishes and when he has need of them. And if the king wishes to keep them more than forty days at their own expense, they are not bound to remain if they do not wish it. And if the king wishes to keep them at his expense for the defence of the realm, they are bound to remain. And if the king wishes to lead them outside of the kingdom, they need not go unless they wish to, for they have already served their forty days and forty nights.

6. SERVICE OF THE COUNT OF CHAMPAGNE.

Matthew Paris: Chronica Majora, R. S.; III, 116. Latin.

Then Louis, king of the French in order to escape from the pestilence, which was raging with great severity in the camp (before Avignon), betook himself to a certain abbey called Montpensier, which was not far distant from the siege works, till the city should be captured. There came to him at that place Henry, count of Champagne, who had passed forty days at the siege, asking license to return to his own possessions, according to the custom of France. When the king refused his permission the count replied that when his military service of forty days had been performed, he was not bound nor was he willing to remain longer. The king, however, was so inflamed by anger at this that he declared with an oath that if the count should withdraw then he would devastate his whole land with fire. Then the count, as the story goes, procured poison to be placed in the drink of the king, on account of his desire for the queen, for whom he had a guilty love, and was so impelled by the incentive of lust that he was not able to brook longer de-

lay. When the count had thus gone away the king grew desperately sick, and the poison reaching his vital parts, he came to his end; although others say that it was not from poison but from dysentery that he died.

7. FRENCH MILITARY TENANTS SUMMONED TO THE ROYAL ARMY.

Rec. des Hist. des Gaules et de la France, XXIII, pp. 753 ff. Latin.

In the year 1272 the bishop of Paris came to Tours at the citation of the lord king and presented himself in the king's house on the second Sunday after Easter, before Ferrario de Verneuil, knight, marshall of France, saying that he had come at the citation of the lord king prepared to fulfill his duty; who replied to him that he should come again or send at the first hour of the next day, because in the meanwhile he could not speak or respond to him, since Gregory of St. Martin of Tours was absent, on account of his weakness, and because, moreover, he was expecting new instructions from the king. On the next day and on Tuesday the aforesaid bishop presented himself before the said marshall, saying that he had come ready for the service of the king with three knights, whose names were John de Marchiaco, John de Juliaco and Adam de Blesum. He said that if he was held to send more he was ready to do what he ought; and if he had furnished more than he owed, that this should not bind either him or the church of Paris for the future.

The bishop of Troyes appeared for his see, saying that he owed two knights, whose names were Ralph and Droco de Pratellis.

John de Rouvraye, knight, lord of Yneto, appeared for himself acknowledging that he owed one knight by reason of his land of Rouvraye, whom he brought with him, that is to say, John de Caim.

Reginald Trihan, knight, appeared for himself and goes.[1]

Henry d'Eauville did not appear, but he sent for himself one knight, William de Petra.

William Bacon, knight, appeared for Geoffrey de Forêt, who owes military service for forty days; he goes to the army.

William de Coynères, knight, sends for himself Thomas Chocquet, for ten days.

Thomas de Cugry, esquire, appeared, saying that he owes four

[1] i. e. into military service with the army.

days; he sends instead of himself Richard de St. Germain, who will complete these four days after his own service.

Nicholas Bourdet, esquire, appeared for himself, and goes to the army; and he will be a knight there, or will provide another knight.

John de Chanteleu, knight, appeared saying that he owed ten days for himself, and that he also appeared for Godardus de Godardville, knight, who owes forty days.

Robert de Morville, knight, appeared for himself, owing military service for twenty days for half a fee.

The count of Soissons appeared and went to the army with three other knights whom he acknowledges he owes to the king, and led with him six knights besides his service.

Hugh de Conflans, knight, marshal of Champagne, appeared for the king of Navarre and led with him sixty knights for service owed to the king.

John Doré, knight, appeared for the lady of Chapelle, on account of her land of Berry which owes military service; and he goes in place of her.

William de Chantelon, knight, appeared for himself saying that he owed military service to the lord king for thirty days, for three-quarters of a knight's fee.

VIII. FEUDAL JUSTICE.

1. ENGLISH CUSTOMS OF ELEVENTH CENTURY.

Leges Henrici Primi, LV. Thorpe: Anc. Laws and Inst., Vol. I. p. 55. Latin.

To every lord it is allowed to summon his man that he may be at right to him in his court; and even if he is resident at the most distant manor of that honor from which he holds, he shall go to the plea if his lord summons him. If his lord holds different fiefs the man of one honor is not compelled by law to go to another plea, unless the cause belongs to the other to which his lord has summoned him.

If a man holds from several lords and honors, however much he holds from others, he owes most and will be subject for justice to him of whom he is the liege man.

Every vassal owes to his lord fidelity concerning his life and members and earthly honor and keeping of his counsel in what is honorable

and useful saving the faith of God and of the prince of the land. Theft, however, and treason and murder and whatever things are against the Lord and the catholic faith are to be required of or performed by no one; but faith shall be held to all lords, saving the faith of the earlier, and the more to the one of which he is the liege. And let permission be given him, if any of his men seek another lord for himself.

2. WRIT TO SECURE FEUDAL JURISDICTION, AB. A. D. 1100.

Chronicon Monasterii de Abingdon, Vol. II, p. 165, Rolls Series. Latin.

Henry, king of England, to Ralph Basset, greeting.

I command you to cause Vincent, abbot of Abingdon to have his court in Oxford as well and fully as that church of Abingdon ever had it or any one of his predecessors had it best and most fully and honorably. And his men shall not plead outside of his court unless the abbot has first failed to give right in his court, and as you are able to make inquisition through the legal men of Oxford that he ought to have his court. Witness the chancellor; at Woodstock.

3. ETABLISSEMENTS DE ST. LOUIS.

Livre 1. c. 71 : Ed. by Viollet, Vol. II, p. 124. French.

If a baron is summoned to the court of the king for any question of an inheritance and shall say, "I am not willing to be judged in this matter except by my peers," then at least three others ought to be summoned, and the king's justice shall try the suit along with these and any other nobles.

4. CONDEMNATION BY A FEUDAL COURT.

Teulet : Layettes du Trésor des Chartes, No. 3778, Vol. 3, p. 70. Latin.

Raymond by the grace of God count of Toulouse, marquis of Provence, to the nobleman Arnold Atton, viscount of Lomagne, greeting.

Let it be known to your nobility, by the tenor of these presents what has been done in the matter of the complaints which we have made about you before the court of Agen; that you have not taken the trouble to keep or fulfil the agreements sworn by you to us, as is more fully contained in the instrument drawn up there, sealed with our seal by the public notary; and that you have refused contemptuously to appear before the said court for the purpose of doing justice; and otherwise com-

mitted multiplied and great delinquencies against us. As your faults have required, the aforesaid court of Agen has unanimously and concordantly pronounced sentence against you, and for these matters has condemned you to hand over and restore to us the chateau of Auvillars and all that land which you hold from us in fee, to be had and held by us by right of the obligation by which you have bound it to us for fulfilling and keeping the said agreements.

Likewise it has declared that we are to be put into possession of the said land and that it is to be handed over to us, on account of your contumacy, because you have not been willing to appear before the same court on the days which were assigned to you. Moreover, it has declared that you shall be held and required to restore the said land in whatsoever way we wish to receive it, with few or many, in peace or in anger, in our own person, by right of lordship. Likewise it has declared that you shall restore to us all the expenses which we have incurred or the court itself has incurred on those days which were assigned to you or because of those days, and has condemned you to repay these to us.

Moreover, it has declared that the nobleman Gerald d'Armagnac, whom you hold captive, you shall liberate, and deliver him free to us. We will, moreover, by right of our lordship that you liberate him.

We call, therefore, upon your discretion in this matter, strictly requiring you and commanding that you obey the aforesaid sentences in all things and fulfil them in all respects and in no way defer the fulfilment of them. For making the announcement, the demand and the reception of these things, we have appointed as our representatives our beloved and faithful noblemen Gaston de Gontaud and R. Bernard de Balencs, promising that whatever shall be done by them in the aforesaid matters, we will hold as settled and firm forever. In testimony of which we have caused these present letters to be corroborated by the strength of our seal. Similar letters, divided through the alphabet, for a perpetual memory of this matter we have caused to be retained with us. Given at Agen, the third of the Kalends of July, A. D. 1249.

IX. RIGHT OF COINAGE.

1. GRANT OF THE MINT OF AUXERRE, A. D. 1204.

Quantin: Recueil de Pièces du XIII Siècle, No. 35, p. 17. Latin.

I, Pierre, count of Auxerre and Tonnerre, make known to all present and to come that since Lambert de Bar possessed by hereditary

right the dies of the mint of Auxerre and Tonnerre, and on that account was my man; on his petition I have granted the said dies to my beloved and faithful Pierre de Chablis and his heirs to be possessed peacefully and quietly forever. And on this account with the consent and good will of the countess Yolande, my wife, I have received the aforesaid Pierre as my liege man. For the confirmation of this matter I and Yolande, the countess, my wife, have given command that the present charter corroborated with the protection of our seals should be delivered to the said Pierre.

Done in the year of the Incarnation of the Lord 1204, in the month of July.

2. CHARTER OF ODO OF BURGUNDY, A. D. 1337.

Ducange, under the word Moneta regia. Latin.

We, Odo, duke of Burgundy, count of Artois and Burgundy, palatine and lord of Sains make known to all that since we have heard that our dear and famous lord, the king of France, feels hardly toward us because his master of the mint has given him to understand that we are now coining money in our town of Auxerre like his money in imprint and form, that there is little difference between his money and ours, and that many people may be deceived in taking our money as the money of our said lord; we who would not on any account wish to do anything which should be displeasing to our lord, are willing and do promise to change the imprint in the form which we are now having coined in our town of Auxerre, and to make in our said money such a difference and such a form that each person will be able clearly to distinguish our money from the money of the lord king, so that our said money will have its circulation only in our county of Burgundy and in the land of the Empire. Moreover we will command and forbid and cause to be forbidden that money of the kingdom should be minted, and also cause oath to be made that the small coin of the kingdom shall not be received.

In testimony of which thing we have caused our seal to be placed upon these present letters, made and given at the Bois de Vincennes the third day of October, 1337.

X. FORFEITURE.

Rotuli Hundredorum, ii, p. 183. Latin.

It is presented by the jurors above named that the manor of Chinnore along with the hamlet of Sydenham was held of old, from the time of the Conquest, from the lord king of England, by a certain man who was named Walter de Vernon, as one knight's fee; and because the said Walter de Vernon refused to perform his due service from the said manor to the lord king John in the time of the war which sprang up between the lord king John and the king of France, the lord king John with the advice of his council seized that same manor with its appurtenances and removed the said Walter de Vernon, on account of his ingratitude from the possession of the aforesaid manor forever. And the lord king John granted that same manor with its appurtenances for the services that to the same lord king was due from it to Saer de Quincy formerly earl of Winchester, to hold to himself and his heirs *in capite* from the lord king as one knight's fee; and the heirs of the said Saer held the aforesaid manor in succession, and still hold it, except the hamlet of Sydenham, which the abbot of Thame holds as a gift from Roger de Quincy.

BIBLIOGRAPHICAL NOTE.

Ch. Mortet: Féodalité.

Perhaps the best general treatise on the subject is the article by this author given under the word *Féodalité*, in *La Grande Encyclopédie*, and subsequently reprinted as a separate work.

A. Luchaire: Manuel des Institutions Françaises, Pt. II. Les Institutions Féodales.

This is a detailed description of feudal institutions from the 11th to the 14th century and abounds in bibliographical information. It does not deal with the question of the origins of Feudalism. Upon this last question there has been a very considerable amount of writing, largely polemical in its character. Some of the most conspicuous books on this phase of the subject are the following:

P. Roth: Geschichte des Beneficialwesens, 1850; *and* Feudalität und Unterthanenverband, 1863.

G. Waitz: Ueber die Anfänge der Vassalität, 1856; *and* Deutsche Verfassungsgeschich'e, Vol. IV, 1884.

Fustel de Coulanges: Les Origines du Système Féodal, 1890.

Very useful and suggestive outline accounts of Feudalism are to be found in English in Professor E. Emerton's *Introduction to the Middle Ages*, and *Mediæval Europe;* and Professor G. B. Adams' *Civilization during the Middle Ages.*

TRANSLATIONS AND REPRINTS

FROM THE

ORIGINAL SOURCES OF EUROPEAN HISTORY.

VOL. IV. ORDEALS, COMPURGATION, EXCOMMUNICATION, AND INTERDICT. NO. 4.

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MEDIÆVAL LEGAL PROCEDURE.

INTRODUCTION.

In the jurisprudence of the Middle Ages we do not find any trial in the modern sense of the word, no careful weighing of testimony followed by a decision in accordance with the evidence. The chief function of the court was to give a forejudgment—the *Beweisurteil*—indicating which litigant was to have the privilege of offering proof as to the justice of his contention. Any form of compromise was unknown. One party was entirely in the right, the other absolutely in the wrong. The methods of proof were compurgation, ordeal, and wager of battle, and the party on whom the burden of proof lay usually had the advantage in the subsequent proceedings. This was especially the case with compurgation, where compliance with the minute details of the prescribed forms insured complete success. In the ordeal this was less true, the result oftener depending on the attitude of those conducting the ceremony. The judicial duel and one form of the ordeal—that of the cross—were the only methods of procedure in which both sides were given the opportunity of proof. Throughout the Middle Ages the theory of the law placed the burden of proof on the negative side; and it may be counted a most important step in the progress of European civilization when the Germanic idea finally gave place to the Roman maxim that it is impossible to prove a negative, and that the necessity of producing evidence lies with the accuser. The barbarian system of negative proofs was worked out by means of oaths and of appeals to the judgment of God through ordeals and single combat. Whatever hardships the Germanic methods of proof may have involved theoretically, the practical outcome was to make easy the escape of bold criminals. A Hungarian manuscript[1] in which a record was kept for the 13th century shows the numbers of convictions and of acquittals in the ordeal of hot iron to be about equal, while in England the accused was in certain cases given the choice whether he or the accuser should bear the iron. Speaking of the condition of things in John's reign Maitland says: "Criminal justice was extremely ineffectual; the punishment of a criminal was a rare event; the law may have been cruel . . . ., but bloody it was not. In Henry III's time some satisfactory hanging was accomplished, but the number of presentments of undiscovered crime is very large."[2] The irrationality of such forms of legal procedure was strongly felt by the most enlightened minds, and from the middle of the 12th century we find ecclesiastical as well as secular legislation attempting to bring about a change. This reform did not involve the abandonment of negative proofs, but brought in the worst form of that system, namely, torture, wherein the chances of escape were reduced to a minimum and conviction became practically inevitable.

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[1] Cited in Pollock and Maitland's *History of English Law*, II. 596, note 5.

[2] *Select Pleas of the Crown*, p. xxiv.

I. COMPURGATION.

Compurgation—or wager of law as it was more commonly called in England from the legal phrase *vadiare legem*, to pledge or wage one's law—consisted in a litigant's furnishing the court satisfactory proof of the justice of his cause by means of his own oath supported by that of helpers or compurgators who swore to the truth of their principal's assertions. This method of proof dates back to remote antiquity among the Germanic tribes, and on their conversion it was adopted by the church, which made such extensive use of it in its efforts to secure immunity of the clergy from secular jurisdiction, that the process finally became known as canonical compurgation. The compurgators were originally kinsmen who would have had to pay the *wer-gild* in case the accused had been convicted of the charge, but later custom permitted them to be neighbors or others acceptable to the court. Their number varied according to the gravity of the charge and the character of the accused. It is probable that even in the earliest times compurgation was not resorted to when the proof of the crime was plain and indubitable, and at a later period this rule was carefully enforced, it being left to the discretion of the judge whether the accused should be allowed this form of trial or not. Such permission was almost tantamount to acquittal, yet an effort was made to check the abuses of the system by the provision that compurgators who were so unfortunate as to support a losing cause should be punished as perjurers, that is, should have one hand cut off. Some codes, however, permitted the redemption of the hand by the payment of a money fine. At an early period confidence in the system became weakened, but it was not until the revival of the study of Roman law about the middle of the 12th century that compurgation, together with most forms of appeal to the judgment of God, began to lose ground in mediaeval jurisprudence. From that time on it was discouraged by royal legislation. By 1300 it may be said to have disappeared from the king's court in France, though it still lingered for a long time in the provinces. In Germany it seems to have flourished as late as the 16th century, as also in most of the countries of northern Europe; while in England it was not formally abolished until 1833. In ecclesiastical courts the system was employed down to the 17th century, though the development of the inquisitorial process in the 13th century deprived it of most of its characteristic features.

1. TWO FORMS OF COMPURGATORIAL OATH.

(a) Form. Turon. M.G. LL. Sec. V. p. 154. Latin. 8th century.

[Defendant made oath denying the crime.] Likewise, witnesses of his own order, who were eye-witnesses and cognizant of the facts in the case, swore after him that the aforesaid N. had given a true and satisfactory oath in what he had sworn regarding the matter.

(b) Thorpe's Ancient Laws of England, I. p. 180. Anglo-Saxon. 10th century.

By the Lord, the oath which N. has sworn is clean and without falsehood.

2. COMPURGATION OF QUEEN FREDEGONDA IN 585.

Gregory of Tours, Hist. Franc. Lib. viii. c. 9. M.G. SS. Mer. p. 330.

On the assassination of Chilperic I. king Gontran became guardian of his brother's infant son. Doubts were entertained as to the child's legitimacy, especially as Chilperic was said to have been murdered by a paramour of queen Fredegonda. The latter, however, fully established the paternity of the child by a compurgatorial oath and thus prevented the kingdom of Neustria from passing into the hands of Gontran.

After this the king [Gontran] went to Paris and openly addressed all the people, saying: "My brother Chilperic on his death is said to have left a son, whose governors begged me at the mother's solicitation to stand sponsor for him at the baptismal font on the day of the festival of our Lord's birth; but they did not appear. Next they asked me to have him baptised at Easter, but the child was not brought then. For the third time they prayed me that he might be presented for the sacred rite on St. John's Day, but the child was still kept back. And so they have compelled me to leave home at this disagreeable season of the year. Therefore I have come, and behold, the boy is concealed, he is not shown me. For these reasons I feel certain that matters are not as they have been represented, but that the child is, as I believe, the son of some one of our nobles. For, if it had been of our race, it would have been brought to me. Know, therefore, that I will not acknowledge it until I receive satisfactory proofs of its paternity." When queen Fredegonda heard this she summoned the chief men of her kingdom, namely, three bishops and three hundred nobles, and with them made oath that Chilperic was the father of the child. By this means suspicion was removed from the king's mind.

3. COMPURGATION OF THE BROTHERS OF ADELHER.

Passio S. Bonifatii, ap. Jaffé, Bibliotheca Rer. Germ., III. p. 475. Latin. 11th century.

This story illustrates one of the abuses to which the system of compurgation lent itself, and at the same time shows how the clergy attempted to overcome it by emphasizing the danger of immediate punishment to the perjurer.

Some time after this it happened that a certain priest named Adelher was stricken with great weakness. He was indeed deeply devoted to the bishop [Boniface] on account of his noble character, and knowing the latter's secrets he served him truly. And when he perceived the end of life approaching, by the council of the man of God he gave what

property he had inherited to St. Martin of Mainz. After this, his sickness increasing, he died. Afterwards his brothers violently seized what he had given to St. Martin in the following places, ... And when they had been summoned and questioned regarding their action, they promised to prove by an oath that the property was rightly theirs; and the bishop promised to be present. On the appointed day they brought together a large number of their relatives. The man of God was likewise there, and when the brothers had fetched their compurgators to the altar he is reported to have said: "If ye will swear, swear alone; I do not desire that ye should cause the damnation of all these." But the brothers took the oath. And immediately the bishop turning to them said: "Have ye sworn?" "We have," they replied. Then to the elder he said: "Thou wilt shortly be killed by a bear"; but to the younger, "Never wilt thou see son or daughter from thy seed." Both of the prophesies proved true. And so the church of St. Martin received the heritage given to it.

4. COMPURGATION OF BISHOP NORGAUD OF AUTUN.

Hugh of Flavigny, Chron. Lib. II. M.G. SS. VIII. p. 494. Latin.

Norgaud, Bishop of Autun, had been accused of simony by his canons, and had attempted to clear himself by the aid of oath-helpers; but the compurgators were deterred by fear of the charge of perjury, and Norgaud was deposed. He refused to resign his office, and in the following year succeeded in being reinstated by purging himself in the absence of his enemies. The incident shows another form of abuse of the system.

In the year of our Lord 1101 John, bishop of Frascati, was sent by the pope into England to look after the papal property. . . . . The cardinals had now returned to Rome openly confirming the sentence of deposition against the invader of the see of Autun and pronouncing it to be canonical by authentic proofs, when the bishop of Lyons began openly and publicly to condemn their action. As he was setting out on a pilgrimage to Jerusalem in company with the bishop of Chalons-sur-Sâone and the simoniacal bishop of Autun he was met on the way by the aforesaid bishop of Frascati who, in the absence of accusers and outside the boundaries of his province, received the purgation of him of Autun. The bishop of Lyons aided and confirmed the oath as follows: "I believe that Norgaud, bishop of Autun, has sworn the truth, so help me God." The bishop of Chalons-sur-Sâone also assisted and swore the same thing. I am astonished that the good

judgment of so great a man,[1] renowned everywhere for his inborn goodness and honesty, whose unvarying constancy is venerated by the Gallican church could be deceived by the man to such an extent that even to the present time he takes his part as a compurgator, cherishes and protects him, and is almost the only one in the world to believe good of him, although an almost universal sentiment condemns such a favorable opinion.

5. PUNISHMENT FOR PERJURY.

Lex Fris. xiv., 3. M.G. LL. III. p. 668. Latin. About 800.

As the efficiency of the whole system of compurgation depended upon the confidence that could be placed by the court in the word of the oath-helpers, it was necessary to make the penalty for false swearing as severe as possible. The punishment for perjury varied in different codes. That mentioned in the Frisian law is here given.

He who seeks the composition for homicide,[2] let him swear on the relics of the saints that he will not accuse any one of this except those whom he suspects of the murder; and then let him accuse of homicide one, two, or even three or four or however many there may have been that wounded him who was killed. But, though there were twenty or thirty, yet no more than seven can be accused, and let each one of these who has been accused swear with his twelfth hand,[3] and after the oath let him show himself innocent by the judgment of God in the ordeal of boiling water. Let the one who swore first go first to the ordeal, and so on in order. He who shall be found guilty by the ordeal, let him pay the composition for homicide, and to the king double his *wergild*; let the others who were his oath-helpers pay the fine for perjury as has been previously enacted.[4]

6. REFORM OF INNOCENT III.

Corp. Jur. Can. cc. 5 and 13, Extra, V. 34. Latin.

Although by the 13th century compurgation had come to be looked upon with suspicion by royal judges, it yet continued for a long time an ordinary method of trial for the clergy. Innocent III. introduced certain reforms which did away with some of the dangers of perjury, but he thereby weakened the force of the oaths and dealt a mortal blow to the system.

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[1] i. e., the bishop of Lyons.

[2] In the case of a man killed in a crowd.

[3] i. e., with eleven compurgators.

[4] This fine consisted of a single *wer-gild* each. Vid. Tit. X. eadem lege.

We believe you are not ignorant of how many times the bishop of Trent has been accused of simony. But the accusers though producing a writing were unable to bring forward witnesses according to canonical form to prove that he had given the church of St. Peter to the presbyter P. for four measures of corn. We decree to the common council of our brethren that he ought to purge himself of the aforesaid simony with three of his own order and four abbots and regular priests. Now the manner of purgation shall be as follows: First, the bishop shall swear on God's sacred Gospel that, for giving the church of St. Peter to the presbyter P., he has received no price personally or by the hand of a subordinate, nor to his knowledge has anyone accepted anything for him. Then the compurgators shall swear upon God's holy Gospel that they believe he has spoken the truth.

But those who are brought forward to purge another of infamy are held to affirm this alone by their oaths; namely, that they believe that he who is being purged speaks the truth.

II. JUDGMENTS OF GOD—ORDEALS.

1. FORMULA FOR CONDUCTING THE ORDEAL OF BOILING WATER.[1]

From the breviary of Eberhard of Bamberg, ed. Zeumer in M.G. LL. Sec. V. Formulae, p. 650. Latin. 12th or 13th century.

Let the priest go to the church with the prosecutors and with him who is about to be tried. And while the rest wait in the vestibule of the church let the priest enter and put on the sacred garments except the chasuble and, taking the Gospel and the chrismarium and the relics of the saints and the chalice, let him go to the altar and speak thus to all the people standing near: Behold, brethren, the offices of the Christian religion. Behold the law in which is hope and remission of sins, the holy oil of the chrisma, the consecration of the body and blood of our Lord. Look that ye be not deprived of the heritage of such great blessing and of participation in it by implicating yourselves in the crime of another, for it is written, not only are they worthy of death who do these things but they that have pleasure in them that do them.[2]

Then let him thus address the one who is to undertake the ordeal: I command thee, N., in the presence of all, by the Father, the Son,

[1] This may be taken as a fair example of ordeal formulæ in general, as they were all of a similar nature.

[2] Rom. I. 32.

and the Holy Ghost, by the tremendous day of judgment, by the ministry of baptism, by thy veneration for the saints, that, if thou art guilty of this matter charged against thee, if thou hast done it, or consented to it, or hast knowingly seen the perpetrators of this crime, thou enter not into the church nor mingle in the company of Christians unless thou wilt confess and admit thy guilt before thou art examined in public judgment.

Then he shall designate a spot in the vestibule where the fire is to be made for the water, and shall first sprinkle the place with holy water, and shall also sprinkle the kettle when it is ready to be hung and the water in it, to guard against the illusions of the devil. Then, entering the church with the others, he shall celebrate the ordeal mass. After the celebration let the priest go with the people to the place of the ordeal, the Gospel in his left hand, the cross, censer and relics of the saints being carried ahead, and let him chant seven penitential psalms with a litany.

Prayer over the boiling water: O God, just Judge, firm and patient, who art the Author of peace, and judgest truly, determine what is right, O Lord, and make known Thy righteous judgment. O Omnipotent God, Thou that lookest upon the earth and makest it to tremble, Thou that by the gift of Thy Son, our Lord Jesus Christ, didst save the world and by His most holy passion didst redeem the human race, sanctify, O Lord, this water being heated by fire. Thou that didst save the three youths, Sidrac, Misac, and Abednago, cast into the fiery furnace at the command of Nebuchadnezzar, and didst lead them forth unharmed by the hand of Thy angel, do Thou O clement and most holy Ruler, give aid if he shall plunge his hand into the boiling water, being innocent, and, as Thou didst liberate the three youths from the fiery furnace and didst free Susanna from the false charge, so, O Lord, bring forth his hand safe and unharmed from this water. But if he be guilty and presume to plunge in his hand, the devil hardening his heart, let Thy holy justice deign to declare it, that Thy virtue may be manifest in his body and his soul be saved by penitence and confession. And if the guilty man shall try to hide his sins by the use of herbs or any magic, let Thy right hand deign to bring it to no account. Through Thy only begotten Son, our Lord Jesus Christ, who dwelleth with Thee.

Benediction of the water: I bless thee, O creature of water, boiling above the fire, in the name of the Father, and of the Son, and of the Holy Ghost, from whom all things proceed; I adjure thee by Him who ordered thee to water the whole earth from the four rivers, and who

summoned thee forth from the rock, and who changed thee into wine, that no wiles of the devil or magic of men be able to separate thee from thy virtues as a medium of judgment; but mayest thou punish the vile and the wicked, and purify the innocent. Through Him whom hidden things do not escape and who sent thee in the flood over the whole earth to destroy the wicked and who will yet come to judge the quick and the dead and the world by fire. Amen.

Prayer: Omnipotent, Eternal God, we humbly beseech Thee in behalf of this investigation which we are about to undertake here amongst us that iniquity may not overcome justice but that falsehood may be subjected to truth. And if anyone seek to hinder or obscure this examination by any magic or by herbs of the earth, deign to bring it to naught by Thy right hand, O upright Judge.

Then let the man who is to be tried, as well as the kettle or pot in which is the boiling water, be fumed with the incense of myrrh, and let this prayer be spoken: O God, Thou who within this substance of water hast hidden Thy most solemn sacraments, be graciously present with us who invoke Thee, and upon this element made ready by much purification pour down the virtue of Thy benediction that this creature, obedient to Thy mysteries, may be endued with Thy grace to detect diabolical and human fallacies, to confute their inventions and arguments, and to overcome their multiform arts. May all the wiles of the hidden enemy be brought to naught that we may clearly perceive the truth regarding those things which we with finite senses and simple hearts are seeking from Thy judgment through invocation of Thy holy name. Let not the innocent, we beseech Thee, be unjustly condemned, or the guilty be able to delude with safety those who seek the truth from Thee, who art the true Light, who seest in the shadowy darkness, and who makest our darkness light. O Thou who perceivest hidden things and knowest what is secret, show and declare this by Thy grace and make the knowledge of the truth manifest to us who believe in Thee.

Then let the hand that is to be placed in the water be washed with soap and let it be carefully examined whether it is sound; and before it is thrust in let the priest say: I adjure thee, O vessel, by the Father, and the Son, and the Holy Ghost, and by the holy resurrection, and by the tremendous day of judgment, and by the four Evangelists, that if this man be guilty of this crime either by deed or by consent, let the water boil violently, and do thou, O vessel, turn and swing.

After this let the man who is to be tried plunge in his hand, and

afterwards let it be immediately sealed up. After the ordeal let him take a drink of holy water. Up to the time of the decision regarding the ordeal[1] it is a good thing to mix salt and holy water with all his food and drink.

2. ORDEAL OF HOT WATER UNDERTAKEN BY A PRIEST TO CONFUTE A HERETIC.

Gregory of Tours, In Gloria Martyr. c. 80. M.G. SS. Mer. I, p. 542. Latin.

An Arian presbyter disputing with a deacon of our religion made venemous assertions against the Son of God and the Holy Ghost, as is the habit of that sect. But when the deacon had discoursed a long time concerning the reasonableness of our faith and the heretic, blinded by the fog of unbelief continued to reject the truth, according as it is written, "Wisdom shall not enter the mind of the wicked," the former said: "Why weary ourselves with long discussions? Let acts approve the truth; let a kettle be heated over the fire and someone's ring be thrown into the boiling water. Let him who shall take it from the heated liquid be approved as a follower of the truth, and afterwards let the other party be converted to the knowledge of this truth. And do thou also understand, O heretic, that this our party will fulfil the conditions with the aid of the Holy Ghost; thou shalt confess that there is no discordance, no dissimilarity in the Holy Trinity." The heretic consented to the proposition and they separated after appointing the next morning for the trial. But the fervor of faith in which the deacon had first made this suggestion began to cool through the instigation of the enemy. Rising with the dawn he bathed his arm in oil and smeared it with ointment. But nevertheless he made the round of the sacred places and called in prayer on the Lord. What more shall I say? About the third hour they met in the market place. The people came together to see the show. A fire was lighted, the kettle was placed upon it, and when it grew very hot the ring was thrown into the boiling water. The deacon invited the heretic to take it out of the water first. But he promptly refused, saying, "Thou who didst propose this trial art the one to take it out." The deacon all of a tremble bared his arm. And when the heretic presbyter saw it besmeared with ointment he cried out: "With magic arts thou hast thought to protect thyself, that thou

[1] A period of three days was allowed to elapse before the hand was examined.

hast made use of these salves, but what thou hast done will not avail." While they were thus quarreling there came up a deacon from Ravenna named Iacinthus and inquired what the trouble was about. When he learned the truth he drew his arm out from under his robe at once and plunged his right hand into the kettle. Now the ring that had been thrown in was a little thing and very light so that it was thrown about by the water as chaff would be blown about by the wind; and searching for it a long time he found it after about an hour. Meanwhile the flame beneath the kettle blazed up mightily so that the greater heat might make it difficult for the ring to be followed by the hand; but the deacon extracted it at length and suffered no harm, protesting rather that at the bottom the kettle was cold while at the top it was just pleasantly warm. When the heretic beheld this he was greatly confused and audaciously thrust his hand into the kettle saying, "My faith will aid me." As soon as his hand had been thrust in all the flesh was boiled off the bones clear up to the elbow. And so the dispute ended.

3. HINCMAR'S DESCRIPTION OF THE COLD WATER ORDEAL.

De Divort. Lotharii c. vi. in Migne: Patrologia, Vol. 125, col. 668, 669. Latin.

Now the one about to be examined is bound by a rope and cast into the water because, as it is written, each one shall be holden with the cords of his iniquity.[1] And it is evident that he is bound for two reasons; to wit, that he may not be able to practice any fraud in connection with the judgment, and that he may be drawn out at the right time if the water should receive him as innocent, so that he perish not. For as we read that Lazarus, who had been dead four days (by whom is signified each one buried under a load of crimes), was buried wrapped in bandages and, bound by the same bands, came forth from the sepulchre at the word of the Lord and was loosed by the disciples at his command; so he who is to be examined by this judgment is cast into the water bound, and is drawn forth again bound, and is either immediately set free by the judgment of the judges, being purged, or remains bound till the time of his purgation and is then examined by the court. . . . . And in this ordeal of cold water whoever, after the invocation of God, who is the Truth, seeks to hide the truth by a lie,

[1] Prov. V. 22.

cannot be submerged in the waters above which the voice of the Lord God has thundered; for the pure nature of the water recognizes as impure and therefore rejects as inconsistnet with itself such human nature as has once been regenerated by the waters of baptism and is again infected by falsehood.

4. DOOM OF KING AETHELSTAN REGARDING THE ORDEAL OF RED-HOT IRON.

Thorpe's Ancient Laws of England. I, p. 226. Anglo Saxon, and Latin. Also Concil. Greatanlea. can. vii and viii, in Harduin VI, col. 569. Latin. 928. A. D.

If anyone shall have given pledge to undergo the ordeal of iron . . . . ., let him go three days beforehand to the priest whose duty it is to bless him with the sign of the cross; and let him live upon bread, water, salt and herbs, and hear mass each one of the three days; and let him make his offering and go to the holy communion on the day when he is to be examined by the ordeal; and before he is examined let him swear that by the law of the realm he is innocent of the charge. . . . . Concerning the ordeal we enjoin in the name of God and by the command of the archbishop and of all our bishops that no one enter the church after the fire has been brought in with which the ordeal is to be heated except the priest and him who is to undergo judgment. And let nine feet be measured off from the stake to the mark, by the feet of him who is to be tried. . . . . And when the ordeal is ready let two men from each side go in and certify that it is as hot as we have directed it to be. Then let an equal number from both sides enter and stand on either side of the judgment place along the church, and let them all be fasting and abstinent from their wives on the preceding night. And let the priest sprinkle them all with water and let them bow themselves everyone to the holy water and let the holy Gospel and the cross be given them all to kiss. And no one shall mend the fire any longer than the beginning of the hallowing, but let the iron lie on the coals until the last collect. Afterwards let it be placed on a frame, and let no one speak except to pray diligently to God, the Father Omnipotent, to deign to manifest His truth in the matter. And let the accused drink of the holy water and then let the hand with which he is about to carry the iron be sprinkled, and so let him go [to the ordeal.] Let the nine feet that were measured off be divided into three sections. In the first division let him hold his right foot, close to the stake. Then let him

move his right foot across the second into the third division, where he shall cast the iron in front of him and hasten to the holy altar. Then let his hand be sealed up, and on the third day let examination be made whether it is clean or foul[1] within the wrapper. And whoever shall transgress these laws, be the ordeal of no worth in his case, but let him pay the king a fine of twenty shillings.

5. ORDEAL OF GLOWING PLOUGHSHARES UNDERGONE BY QUEEN EMMA.

Annales Winton. ann. 1043, in Annales Monastici II. pp. 23, 24. R. S. Latin.

This story though evidently apocryphal[2] was probably written about the end of the 12th century and gives an idea of the ceremony as it was employed at that time.

The queen was brought at the king's command from Whewell to Winchester and throughout all the night preceding her trial she kept her vigil at the shrine of St. Swithin. . . . . On the appointed day the clergy and the people came to the church and the king himself sat on the tribunal. The queen was brought before her son and questioned whether she was willing to go through with what she had undertaken. . . . . Nine glowing ploughshares were placed on the carefully swept pavement of the church. After these had been consecrated by a short ceremony the queen's shoes and stockings were taken off; then her robe was removed and her cloak thrown aside, and, supported by two bishops, one on either side, she was led to the torture. The bishops who led her were weeping and those who were much more afraid than she were encouraging her not to fear. Uncontrollable weeping broke out all over the church and all voices were united in the cry "St. Swithin, O St. Swithin, help her!" If the thunder had pealed forth at this time the people would not have heard it, with such strength, with such a concourse of voices did the shout go up to Heaven that St. Swithin should now or never hasten to her aid. God suffers violence and St. Swithin is dragged by force from Heaven. In a low voice the queen offered this prayer as she undertook the ordeal: "O God, who didst free Susanna from the wicked elders and the three youths from

[1] A blister found on the hand was sufficient for conviction, in some cases at least. See Eng. Hist. Rev. III, p. 159.

[2] See Freeman, Norman Conquest II. p. 568.

the fiery furnace, from the fire prepared for me deign to preserve me through the merits of St. Swithin."

Behold the miracle! With the bishops directing her feet, in nine steps she walked upon the nine ploughshares, pressing each one of them with the full weight of her whole body; and though she thus passed over them all, she neither saw the iron nor felt the heat. Therefore she said to the bishops: "Am I not to obtain that which I especially sought? Why do you lead me out of the church when I ought to be tried within it?" For she was going out and yet did not realize that she had gone through the ordeal. To which the bishops replied as well as they could through their sobs: "O lady, behold, you have already done it; the deed is now accomplished which you think must yet be done." She gazed and her eyes were opened; then for the first time she looked about and understood the miracle. "Lead me," she said, "to my son, that he may see my feet and know that I have suffered no ill."

6. ORDEAL OF FIRE.

Raimond of Agiles c. xviii. Recueil des Hist. des Crois. Hist. Occ. Vol. III, p. 283. Latin. Cf. also, Fulk of Chartres, c. x., and Ralph of Caen, c. cviii.

When the Holy Lance was discovered by Peter Bartholomew at Antioch during the first crusade, doubts as to the genuineness of the relic were expressed by Boemund and his followers. To silence these Peter was compelled to undergo the ordeal of fire to prove that it was really the spear wherewith the side of our Lord had been pierced. Raimond of Agiles was a firm believer in the relic.

. . . . All these things were pleasing to us, and having enjoined on him [i. e., Peter Bartholomew] a fast we declared that a fire should be prepared upon that day on which the Lord was beaten with stripes and put upon the cross for our salvation. And the fourth day thereafter was the day before the Sabbath. So when the appointed day came round a fire was prepared after the noon hour. The leaders and the people to the number of 60,000 came together; the priests were there also with bare feet, clothed in ecclesiastical garments. The fire was made of dry olive branches, covering a space thirteen feet long; and there were two piles with a space about a foot wide between them. The height of these piles was four feet. Now when the fire had been kindled so that it burned fiercely, I, Raimond, in presence of the whole multitude, spoke: "If Omnipotent God has spoken to this man face to face, and the blessed Andrew has shown him our Lord's lance while he was keeping his vigil, let him go through the fire unharmed. But if it

is false, let him be burned together with the lance which he is to carry in his hand." And all responded on bended knees, "Amen." The fire was growing so hot that the flames shot up thirty cubits high into the air and scarcely anyone dared approach it. Then Peter Bartholomew clothed only in his tunic and kneeling before the bishop of Albar called God to witness "that he had seen Him face to face on the cross, and that he had heard from Him those things above written. . . ." Then when the bishop had placed the lance in his hand, he kneeled and made the sign of the cross and entered the fire with the lance, firm and unterrified. For an instant's time he paused in the midst of the flames, and then by the grace of God passed through. . . . . But when Peter emerged from the fire so that neither his tunic was burned nor even the thin cloth with which the lance was wrapped up had shown any sign of damage, the whole people received him after that he had made over them the sign of the cross with the lance in his hand and had cried, "God aid us!" All the people, I say, threw themselves upon him and dragged him to the ground and trampled on him, each one wishing to touch him or to get a piece of his garment, and each thinking him near someone else. And so he received three or four wounds in the legs where the flesh was torn away, his back was injured and his sides bruised. Peter had died on the spot, as we believe, had not Raimond Pelet, a brave and noble soldier, broken through the wild crowd with a band of friends and rescued him at the peril of their lives. . . . . After this[1] Peter died in peace at the hour appointed to him by God, and journeyed to the Lord; and he was buried in the place where he had carried the lance of the Lord through the fire.[2]

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[1] Twelve days later.

[2] A great controversy arose as to the cause of his death, his friends ascribing it to his rough treatment after the ordeal, his enemies declaring that it was due to the burns he had received. From the statement of the anonymous author of an abridgement to Fulk of Chartres to the effect that Peter did not live through fifteen days following the ordeal, but died on the twelfth, it would seem that fifteen days was the period fixed by law within which the judgment of God was expected to manifest itself. Gesta Franc. Iherusalem expugnantium, c. XXVI.

7. ORDEAL OF THE CROSS.

(a) Capitulary of Charles the Great.

Charta divis. c. 14 Baluze: Capitularia I, col. 309. Latin.

In the ordeal of the cross the two litigants were placed standing before a crucifix with their arms outstretched. The one who was able to maintain this position the longer won his case.

If a dispute, contention, or controversy shall arise between the parties regarding the boundaries or limits of their kingdoms of such a nature that it cannot be settled or terminated by human evidence, then we desire that for the decision of the matter the will of God and the truth of the dispute may be sought by means of the judgment of the cross, nor shall any sort of battle or duel ever be adjudged for the decision of any such question,

(b) Capitulary of Louis le Débonnaire.

Capit. Eccl., ann. 818, c. 27. M.G. LL. vol. I, p. 209. Latin.

It is enacted that hereafter no one shall presume to undertake any sort of ordeal of the cross; lest that which was glorified by the passion of Christ should be brought into contempt through anyone's temerity.

8. DISTRUST OF ORDEAL SHOWN BY LAW OF HENRY II.

Assize of Clarendon, § 14, in Gesta Heinrici II., II. p, clii. R. S. Latin.

Also the lord king wishes that those who shall make their law[1] and shall be acquitted by the law, if they be of very bad repute and evilly defamed by the testimony of many legal men, shall abjure the realm, so that within eight days they shall cross the sea unless the wind shall detain them; and with the first wind they shall have thereafter they shall cross the sea; and moreover they shall not return to England except by grace of the king; and there let them be outlawed. And if they return let them be seized as outlaws.

9. ABOLITION OF ORDEALS.

(a) Decree of Innocent III.

Corp. Jur. Can. c. 9, Extra, III. 50 (Can. 18, Conc. Lateran. IV. ann. 1215.) Latin.

Also let no ecclesiastic be placed in command of low soldiery, or bowmen, or men of blood of that sort, nor let any subdeacon, deacon, or

[1] i. e., who shall be admitted to the ordeal.

priest pactice any office of surgery which requires burning or cutting. Nor let anyone pronounce over the ordeal of hot or cold water or glowing iron any benediction or rite of consecration, regard being also paid to the prohibitions formerly promulgated respecting the single combat or duel.

(b) Instructions of Henry III. to his judges in 1219.

Rymer's Foedera (old ed.) I. p. 228. Latin.

The king to his beloved and faithful Philip de Ulletot and his fellow judges traveling in the counties of Cumberland, Westmoreland, and Lancaster, greeting: Since it was doubtful and undetermined at the beginning of your eyre by what sort of judgment they ought to be brought to trial who were accused of theft, murder, incendiarism, and similar crimes, inasmuch as the Roman Church has prohibited the judgment of fire and water, it is enacted by our council that in this your eyre the matter be thus conducted for the present in regard to those accused of such excesses. To wit, that those accused of the aforesaid major crimes, who may be strongly suspected of being guilty and regarding whom the suspicion might still be entertained that they would do harm should they be allowed to abjure the realm, that such persons should be retained in our prison and guarded carefully that they may incur no danger of life or limb by occasion of our prison. But those who may be accused of moderate crimes, in whose cases the ordeal of fire or water would have been applicable had it not been prohibited, and who are not suspected of being liable to do harm afterwards if they should abjure our realm, let them abjure the realm. As to those, however, who may be accused of minor crimes, and who are not held in suspicion, let them give sure and sufficient pledge of fidelity and intention to keep the peace and so let them be dismissed.

Since, therefore, our council has provided nothing more definite in this matter, we leave to your discretion to observe the aforesaid regulation, so that you who are better able to recognize the persons of the men, the form of the crime and the truth of the matter itself may proceed in this according to your conscience and discretion.

(c) Edict of Pope Honorius in 1222 renewing the prohibition of the ordeal.

Corp. Jur. Can. (ed. Friedberg) c. 3, Extra, V., 35. Latin.

Our beloved sons recently baptized in Livonia have addressed a

serious complaint to us that the Teutonic Knights of Livonia and certain other advocates and judges who exercise temporal power in the country, if ever the inhabitants are accused of any sort of crime, compel them to undergo the judgment of red-hot iron; and if they suffer any burns from this, they inflict civil penalties on them much to the scandal and terror of the converts and of those about to be converted. Since, therefore, this sort of judgment has been utterly forbidden by legitimate and canonical decrees, inasmuch as God appears thereby to be tempted, we command thee that, setting aside any appeal, and warning them by ecclesiastical censure, thou shouldst compel the said brothers and others to desist from all similar oppression of the converts.

10. LAW OF FREDERIC II. AGAINST THE ORDEAL.

Const. Sicular. Lib. II., Tit. 31. Huillard-Bréholles: Hist. Dip. Frid. II, vol. IV, part I, p. 102. Latin.

The laws which are called by certain ingenuous persons *paribiles*,[1] which neither regard nature nor give heed to the truth, We, who investigate the true science of laws and reject their errors, abolish from our tribunals; forbidding by the edict published under sanction of our name all the judges of our kingdom ever to impose on any of our faithful subjects these *paribiles* laws, which ought rather to be called laws that conceal the truth; but let them be content with ordinary proofs such as are prescribed in the ancient laws and in our constitutions. Indeed, we consider that they deserve ridicule rather than instruction who have so little understanding as to believe that the natural heat of red-hot iron grows mild, nay, (what is more foolish) even turns to coldness without the working of an adequate cause; or who assert that on account of a troubled conscience alone a criminal does not sink into the cold water, when rather it is the holding in of sufficient air that does not allow of his being submerged.[2]

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[1] Lex paribilis from a duel or combat of peers or champions. Ducange.

[2] This last clause is supposed to refer to some artifice whereby those conducting the ordeal secured a conviction when they so desired.

III. JUDGMENTS OF GOD—WAGER OF BATTLE.

The practice of appealing to the judgment of God to settle questions which it transcended man's wisdom to decide is of prehistoric origin. When the Germans invaded the empire a great impetus was given this custom by the resulting complications in legal relations. The theory of the personality of the law made it difficult if not impossible to equitably decide questions arising between subjects of two different races by any other method than an appeal to divine justice, and hence we find the ordeal and wager of battle greatly extended and its procedure adopted and systematized by the church. In this way the latter obtained great influence over the minds of the barbarians and added largely to its power and revenues by assuming control of the administration of justice. The ordeal continued to flourish until the 13th century, when the developing national monarchies gradually forced it to give way. The papal influence, likewise thrown on the side of the reform, materially aided the movement in spite of the opposition of the local clergy. The wager of battle, however, though even more strenuously opposed by the church, did not meet with the same hostility from the secular authorities, and is to be met with occasionally as late as the 16th century. In England it was not formally abolished until 1819.

I. EXAMPLE OF JUDICIAL DUEL IN GERMANY.[1]

Wiponis Vita Chuonradi Imp., c. 33. ann. 1033. M.G. SS. XI. p. 271.

The emperor having levied a force in Saxony marched upon the Luitzes,[2] a people who were formerly half Christians but who have wickedly apostatized and are now become thorough pagans. In their district he put an end to an implacable strife in a wonderful manner. Between the Saxons and the pagans at that time fighting and raids were being carried on incessantly, and when the emperor came he began to inquire which side had first broken the peace that had long been observed inviolate between them. The pagans said that the peace had been disturbed first by the Saxons, and they would prove this by the duel if the emperor would so direct. On the other side the Saxons pledged themselves to refute the pagans in like manner by single combat, though as a matter of fact their contention was untrue. The emperor after consulting his princes permitted the matter to be settled between them by a duel, though this was not a very wise act. Two champions, each selected by his own side, immediately engaged. The Christian, trusting in his faith alone, though faith without the works of

[1] For a good example of the judicial duel under Otto I. see Widukind, Saxon Chronicle, *an.* 938, trans. in Emerton's *Introduction to the Middle Ages*, p. 83.

[2] A Wendish tribe living on the east side of the river Elbe.

justice is dead, began the attack fiercely without diligently considering that God, who is the Truth, who maketh His sun to shine upon the evil and the good, and the rain to fall upon the just and the unjust, decides all things by a true judgment. The pagan on the other hand resisted stoutly, having before his eyes only the consciousness of the truth for which he was fighting. Finally the Christian fell wounded by the pagan. Thereupon his party were seized with such elation and presumption that, had the emperor not been present, they would forthwith have rushed upon the Christians; but the emperor constructed the fortress Werben in which he placed a garrison of soldiers to check their incursions and bound the Saxon princes by an oath and by the imperial commands to a unanimous resistance against the pagans. Then he returned to Franconia.[1]

2. THE JUDICIAL COMBAT IN SPAIN.

Rodericus Toletanus, Lib. VI. c. 26. Bel: Rerum Hispanic. Script. I, p. 241. Latin. 13th century.

The old Gothic or Mozarabic ritual long preserved its place in the churches of Spain, but Gregory VII. on his accession determined to substitute the Roman in place of the old national service in Castile and Leon. The supporters of the papal policy were not at first able to carry their point by means of argument, and resort was had to single combat between champions, one representing the Roman, the other the Gothic ritual.[2]

But before the recall [of the legate Richard] the clergy and people of all Spain were thrown into confusion by being compelled by the legate and the prince to accept the Gallic ritual. On an appointed day the king, the primate, the legate, the clergy, and a vast multitude of people came together and a long altercation took place, the clergy, soldiery and people firmly resisting a change in the service, the king, under the influence of the queen, supporting the change with threats and menaces. Finally the demands of the soldiery brought matters to such a crisis that it was decided to settle the dispute by a duel. When two soldiers had been selected, one by the king, who contended for the Gallic ritual, the other by the soldiery and people, who were equally zealous for the ritual of Toledo, the king's champion was defeated on

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[1] For a discussion of this incident see Jahrbücher d. deutschen Geschichte, Konrad II., II. 94, sq.

[2] See Hefele, Conciliengeschichte V., pp. 158 and 200.

the spot to the exultation of the people, because the victor was the champion of the Toledo service. But the king was so far persuaded by queen Constantia that he did not recede from his demands, adjudging the duel to be of no weight. . . . . And when thereupon a great tumult arose among the soldiers and the people, it was finally decided that a copy of the Toledo ritual, and one of the Gallic should be placed in a great fire. When a fast had been imposed upon all by the primate, legate, and clergy, and all had devoutly prayed, the Gallic office was consumed by the fire, while the Gothic leaped up above the flames and was seen by all who stood there praising the Lord to be wholly uninjured and untouched by the fire. But since the king was obstinate and stiff-necked he would not turn aside either through fear of the miracle or through supplication of the people, but, threatening confiscation and death against those who resisted, he ordered the Gallic office to be adopted in all his dominions. Whence arose from the grief and sorrow of all the proverb, *Quo volunt Reges, vadunt Leges.*

3. LAW OF FREDERIC II. ABOLISHING WAGER OF BATTLE IN SICILY.

Const. Sicular. Lib. II., Tit. 33. H. Bréholles: Op. cit. vol. IV, part I, p. 105. Latin.

We will that the single combat, or duel as it is commonly called, shall never be adjudged between men subject to our jurisdiction, except in a few specified cases; for it cannot be called so much a real proof as a sort of divination, which is not in accord with nature but is opposed to universal law and inconsistent with just reason. For it is almost if not quite impossible for two champions to come together so equally matched that the one is not wholly superior to the other in strength or does not excel him in some other way by greater vigor and courage or at least in cleverness. But we exclude from the benefit of this humane edict murderers who are charged with having caused the death of others by using poison or some other secret means; and even against these we do not sanction the wager of battle at the beginning of the trial, but command that ordinary proofs be first adduced against them if there be any such at hand, and that only then, as a last resort, when the crime cannot be fully established by other proofs after a thorough investigation by the officials of the court, resort may be had to the judgment of battle to decide the above charges: and we wish all these things to be arranged through the medium of a judge fully cognizant of the proceedings, that

he may carefully and diligently investigate the proofs brought out by the inquisition. And if the charges shall not be proved as stated let him grant the accuser permission to offer battle, if nothing was brought out in court prejudicial to the accuser's right. But if the accuser should first offer to prove the crime by witnesses and their testimony should be insufficient, the trial shall not take place by the double method of inquisition and battle, but the defendant, not being convicted of guilt and being presumably innocent, shall be set free; because we wish the same law to be observed among all, both Franks and Lombards, and in all cases. In our new constitution, indeed, wager of battle has been sufficiently recognized in the case of the knights and nobles of our kingdom and of others who are able to offer battle. For we except the crime of treason, respecting which we preserve the judicial duel. Nor is it strange if we subject traitors, secret murderers and poisoners to the duel (though not so much as a method of judgment as to terrify them); not because our Serenity deems that just in their case which it has declared unjust in others, but because we desire that such homicides as have not feared to lay secret plots against human life, which God's power alone can call into existence, should be publicly subjected to this terrible method of proof in the sight of all men as a punishment and an example to others. Those also we exclude from the terms of our leniency who do not hesitate to plot against our peace in which the peace of all the rest is involved.

IV. EXCOMMUNICATION.

The church as a voluntary organization had from the beginning exercised the right of excluding from its membership those who did not conform to its standards, but it was not until Cyprian's time that this came to be generally looked upon as equivalent to exclusion from salvation. As the theory of the church's true mission developed in the minds of its leaders the field of excommunication rapidly expanded and the tone of its priesthood grew more certain. This change is well shown by comparing St. Ambrose's mild remonstrance against Theodosius with the haughty attitude of the popes of the 12th and 13th centuries, and by noting how the state was compelled to support by civil penalties the sentence of the church. Finally excommunication came to be looked upon as little more than a ban or curse which could be employed by the clergy to avenge their private wrongs, to strengthen contracts, or even to punish animals or demons. The abuses to which the system gave rise became so great that even before the Reformation the censure had lost much of its force, and since that time it has been less and less employed.

1. ST. CYPRIAN ON THE NECESSITY OF MEMBERSHIP IN THE CHURCH.

De Unitate Ecclesiae, § 6, in Migne, Pat. Lat. vol. IV. col. 502, 503.

The spouse of Christ cannot be an adulteress, she is uncorrupted and pure. She knows but one house, she watches over the sanctity of one couch with chaste modesty. She preserves us for God; she confers the kingdom on the son whom she has brought forth. Whosoever separates himself from the church and is joined to an adulteress is separated from the promises of the church; nor will he attain to the rewards of Christ who deserts Christ's church. He is an alien, he is profane, he is an enemy. He can no longer have God for his father who has not the church for his mother. If anyone could escape who was outside the ark of Noah, so also may he escape who shall be outside the bounds of the church.

2. ST. AMBROSE'S THREAT OF EXCOMMUNICATION AGAINST THEODOSIUS.

Epist. LI. §§ 11–13, in Migne: Pat. Lat. vol. XVI, col. 1162, 1163. Latin.

I have written these things, indeed, not to confound you, but that the example of these kings might induce you to put away this sin from your kingdom, which you will accomplish by humiliating your soul to God. You are a man and temptation has come to you; confess it. Sin is not put away except by tears and penitence. Neither an angel can do it nor an archangel; the Lord himself, who alone can say, "I am with you," does not forgive us if we have sinned except we be penitent.

I persuade, I beg, I exhort, I admonish; because it is a grief to me that you who were an example of unusual piety, who were the very personification of clemency, who would not allow guilty individuals to be brought into danger, that you do not grieve at the death of so many innocent persons. Although you have fought battles most successfully, although in other things also you are worthy of praise, yet the crown of all your work was always piety. This the devil envied you, since it was your ever present possession. Conquer him while as yet you have wherewith you may conquer. Do not add another sin to your sin, that you may practice what it has injured many to practice.

I, indeed, though in all other things a debtor to your kindness which I can never be ungrateful for, which kindness surpassed that of many emperors and was equalled by the kindness of one only, I, I say,

have no cause for a charge of contumacy against you, but I have a cause for fear; I dare not offer the sacrifice if you will to be present. Is that which is not allowed after shedding the blood of one innocent person to be allowed after shedding the blood of many? I do not think so.

3. LAW OF LOTHAIR I. IN 824.

Leges Langobard. cap. 15. M.G. LL. IV. p. 542. Latin.

It had always been the policy of the Carolingians to enforce the decrees of the church, but this is the first general direction to counts to assist the bishops with secular penalties.

It is our will that, so often as any person shall be brought to trial for any crimes or misdemeanors and his contumacy shall render him liable even to the episcopal excommunication, the bishop shall associate with himself the count of his district so that the obstinate offender may be forced by the united action of both to render obedience to the command of the bishop. If he does not obey let him pay us our fine; but if he still remains contumacious let him be excommunicated by the bishop. Then if he shall refuse to amend his ways after being excommunicated, let him be bound and imprisoned by the count until we render our judgment against the hardened offender. If, however, it be the count who is the guilty party, let his bishop report him to us; and if the culprit be an imperial vassal, let the count proceed against him as above directed; but if he will not hear, let him be reported to us before he is cast into prison.

4. ENACTMENT OF FREDERIC II. IN 1220.

Confœderatio cum Princip. Ecclesiast. §§ 6–8. M.G. LL. II. p. 236. Latin.

Also we will avoid the company of excommunicated persons, as it is right we should do, provided that they are denounced to us by word of mouth or by letters or by messengers worthy of confidence; and unless absolution be previously granted we will not concede them any standing in our courts: this distinction, however, being made, that excommunication shall not hinder them from appearing as defendants, though without advocates; but it shall take away from them the right and power of acting as judges or witnesses, or of bringing suit against others.

And since the temporal sword was made subsidiary to the spiritual, if it be made known to us in any of the foregoing ways that the excom-

municates have persisted in their contumacy for more than six weeks, our proscription shall be added to the excommunication, nor is it to be withdrawn unless the excommunication be previously recalled.

So in this manner and in all other ways, that is to say, by just and efficacious judgment, we have solemnly promised to aid and defend them [the clergy], and they on their side have pledged their faith to assist us to the extent of their power against any man who may offer violent resistance to any such judgment of ours.

5. EXCOMMUNICATION OF FREDERIC II. BY INNOCENT IV. AT THE COUNCIL OF LYONS, 1245.

Harduin, Concilia VII. col. 385, 386. Latin.

[Innocent recapitulates the efforts of the popes to maintain peace between the church and the empire and dwells upon the sins of the emperor. Then, after charging him with the particular crimes of perjury, sacrilege, heresy, and tyranny, he proceeds as follows:]—We, therefore, on account of his aforesaid crimes and of his many other nefarious misdeeds, after careful deliberation with our brethren and with the holy council, acting however unworthily as the vicar of Jesus Christ on earth and knowing how it was said to us in the person of the blessed apostle Peter, *Whatsoever ye shall bind on earth shall be bound in heaven*; We announce and declare the said prince to be bound because of his sins and rejected by the Lord and deprived of all honor and dignity, and moreover by this sentence we hereby deprive him of the same since he has rendered himself so unworthy of ruling his kingdom and so unworthy of all honors and dignity; for, indeed, on account of his iniquities he has been rejected of God that he might not reign or exercise authority. All who have taken the oath of fidelity to him we absolve forever from such oath by our apostolic authority, absolutely forbidding anyone hereafter to obey him or look upon him as emperor or king. Let those whose duty it is to select a new emperor proceed freely with the election. But it shall be our care to provide as shall seem fitting to us for the kingdom of Sicily with the council of our brothers, the cardinals.

6. COMMINATORY CLAUSE FROM A CHARTULARY OF THE ABBEY OF ST. PETER OF CHARTRES. 988 A.D.

Found in Giry, Manuel de Diplomatique. p. 564.

It was usual for mediæval legal documents, and especially for deeds of gift, to contain clauses excommunicating *latae sententiae* any who might venture to infringe in any way upon the provisions contained in the document.

Now if anyone shall think to infringe on this deed of gift or bring a false action against it, may he be seized with jaundice and smitten with blindness; may he bring his present life to a miserable ending by a most wretched death and undergo everlasting damnation with the devil, where bound with red-hot chains, may he groan for ever and ever, and may the worm that never dies feed on his flesh, and the fire that cannot be quenched be his food and sustenance eternally.

7. FORMULA OF EXCOMMUNICATION OF ANIMALS.

Found in Du Cange, Glossarium, s. v. Excommunicatio.

In the name of the Lord, Amen. Complaint having been made in court by the inhabitants of Villenoce in the diocese of Troyes against the locusts and caterpillars and other such animals, called in the vulgar tongue *Hurebecs*, that have laid waste the vineyards of that place for several years, and continue to do so, as is asserted on the testimony of credible witnesses and by public rumor, to the great detriment of the inhabitants of that and neighboring regions; and their request having been considered that the aforesaid animals should be warned by us and compelled by threats of ecclesiastical punishment to depart from the territory of said town, etc. We, by the authority that we exercise in this region, warn the aforesaid locusts, caterpillars and other animals, under whatsoever name known, by these presents, under threat of curses and excommunication to depart from the vineyards and land of the said town of Villenoce by virtue of this sentence within six days from the publication of this warning and to do no further injury either there or elsewhere in the diocese of Troyes. But, if the above mentioned animals do not implicitly obey this our warning within the specified time, then at the expiration of the six days by virtue of our said authority we excommunicate them through this document and curse them by the same.

8. DECLARATION OF 1682 BY LOUIS XIV.

Given in Michaud, Louis XIV. et Innocent XI., T. IV. p. 68. French.

Inasmuch as St. Peter and his successors, the vicars of Jesus Christ, and even the whole church, have received power from God only over spiritual things which concern salvation, and not at all over temporal and civil affairs, since Jesus Christ Himself teaches that His kingdom is not of this world and that we should *render unto Caesar the things which are Caesar's and unto God the things that are God's*; and since, likewise, this precept of the apostle Paul can in no way be altered or called into question: *Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power resisteth the ordinance of God.* Therefore we declare that princes and kings are not subject by God's command to any ecclesiastical power in temporal things; that they cannot be deposed either directly or indirectly by the authority of the heads of the church; that their subjects cannot be granted dispensation to refuse the allegiance and obedience which they owe, or absolved from the oath of fidelity; and that this doctrine indispensable to public peace and not less advantageous to the church than to the state, must be invariably followed as conforming to the Word of God, to the traditions of the holy Fathers, and to the example of the Saints.

V. INTERDICT.

Interdict is a censure that deprives the faithful of the use of most of the sacraments, of participation in the celebration of the divine offices, and of ecclesiastical sepulture. It is differentiated from excommunication in that it does not entail segregation or exclusion from church membership, so that those on whom it is laid are not thereby handed over to Satan. It was employed especially to coerce princes, as it was the most effective means of exciting public indignation and arousing a people against its ruler. The interdict grew out of a wide use of excommunication and was first employed by the clergy of northern France in the turbulent period following the extinction of the Carolingian dynasty. At first it was looked upon with little favor by the popes, but by the beginning of the 12th century they had adopted it as one of their most effective instruments in dealing with the European states. The wide range of the papal activity tended to bring the censure more and more into use as a political weapon, and at length it ceased almost entirely to be employed as a punishment for immorality. As the censure became thus secularized its influence decreased, until finally the state, relying upon the loyalty of its citizens, took advantage of their indifference to spiritual punishments

and dared openly to defy the papal commands. The last important instance of its use was when the pope laid an interdict on Venice in 1606. By that date it was felt to be an anachronism; it had not been previously employed for a long time, and owing to its complete failure in this case it was henceforth little used. Since then only a few instances of interdict have been known, occurring mostly in Spain and Spanish America.[1]

I. ENACTMENT OF THE COUNCIL OF LIMOGES IN 1031.[2]

Harduin, Concilia, VI., col. 885, 886. Latin.

If they do not keep the peace lay the whole territory of Limoges under a public excommunication[3]: to wit, in such manner that no one unless a priest or a beggar or a traveler or an infant of two years or less may be buried in all Limoges or be carried into another diocese for burial. Let divine service be celebrated secretly in all the churches, and let baptism be given those that seek it. About the third hour let the bells be sounded in all the churches and let all, throwing themselves prone on the ground, pour forth prayers for peace because of their tribulation. Let confession and the viaticum be allowed in the extremity of death. Let the altars in all the churches be stripped, as on Good Friday; and let the crucifixes and ornaments be veiled as a sign of sorrow and mourning to all. Let each priest celebrate the mass behind locked doors, and then only may the altars be decorated, to be stripped again at the close of the service. Let no one marry him a wife during the continuance of this excommunication. Let no one give another a kiss. Let no one in all Limoges, either of the clergy or of the laity, whether sojourners in the land or travelers, eat meat or any other food except what is allowed in Lent. Let no one of the clergy or of the laity have his hair cut or be shaved, until such time as the barons, the leaders of the people, show obedience to the holy council in all things. And if it shall be proved that anyone has violated this law let him not be received except after fitting penance. For the excommunication of the bishops is to be especially observed lest perchance the wrath of the Lord should fall upon us and upon the people.

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[1] For a vivid description of the workings of an interdict see Hurter's Innocenz III., I. p. 348 ff. This is not an account of a real interdict but a mosaic made by piecing together the provisions of many censures.

[2] This measure was proposed as a punishment for any infractions of the Peace of God on the part of the nobles.

[3] It will be observed that the technical use of the word interdict had not yet been adopted.

2. INTERDICT LAID IN NORMANDY IN 1137.

Ordericus Vitalis, Hist. Eccl. Lib. XIII. c. 28. Ed Le Prevost, vol. V, p. 79. Latin.

This interdict was laid to "terrify and restrain the perverse and disorderly inhabitants," who in the anarchy following the death of Henry I. ravaged and plundered each other's land to an almost incredible extent.

And now a still more serious misfortune threatened Normandy with many kinds of evil. In the bishopric of Séèz an anathema[1] was laid on all the lands of William Talvas, and there was no longer heard the sweet chant of divine service, a sound that calms and gladdens the hearts of the faithful. The people were forbidden to enter the churches for the purpose of worshipping God, and the doors were locked. The music of the bells was silenced and the bodies of the dead lay unburied and putrifying, striking the beholders with fear and horror. The pleasures of marriage were denied to those desiring them and the solemn joys of the church services were no longer known. In the diocese of Evreux also a like discipline was inflicted, which hardly restrained by its terrors the disorders in the territory of Roger de Toëni.

3. INTERDICT ON FRANCE IN 1200.

Martène, Thesaurus Anecdot., IV. p. 147. Latin.

In 1193 Philip Augustus married Ingeburg of Denmark, but divorced her on the very day following the ceremony. Pope Innocent III. refused to sanction the decree and when, three years later, Philip married Agnes of Meran he found the whole power of Rome directed against him. He refused to yield, and finally in 1200 the pope laid all France under the interdict from January to September, when the king was forced to give way. See Geraud, "Ingeburge de Danemark," in Bibliothèque de l'Ecole des Chartes, T. I. 2d series, pp. 1–27 and 93–118.

Let all the churches be closed; let no one be admitted to them except to baptize infants; let them not be otherwise opened except for the purpose of lighting the lamps, or when the priest shall come for the Eucharist and holy water for the use of the sick. We permit mass to be celebrated once a week on Friday early in the morning to consecrate the Host for the use of the sick, but only one clerk is to be admitted to assist the priest. Let the clergy preach on Sunday in the vestibules of the churches, and in place of the mass let them disseminate the word of God. Let them recite the canonical hours outside the churches, where the people do not hear them; if they recite an epistle or a gospel let

[1] In one MS. it is spoken of as papal anathema.

them beware lest the laity hear them; and let them not permit the dead to be interred, or their bodies to be placed unburied in the cemeteries. Let them, moreover, say to the laity that they sin and transgress grievously by burying bodies in the earth, even in unconsecrated ground, for in so doing they arrogate to themselves an office pertaining to others. Let them forbid their parishioners to enter churches that may be open in the king's territory, and let them not bless the wallets of pilgrims except outside the churches. Let them not celebrate the offices in Passion-week, but refrain even till Easter day, and then let them celebrate in private, no one being admitted except the assisting priest, as above directed; let no one communicate even at Easter, except he be sick and in danger of death. During the same week, or on Palm Sunday, let them announce to their parishioners that they may assemble on Easter morning before the church and there have permission to eat flesh and consecrated bread. Women are expressly forbidden to be admitted into the churches for purification, but are to be warned to gather their neighbors together on the day of purification and pray outside the church, nor may the women who are to be purified enter even to raise their children to the sacred font for baptism until they are admitted by the priest after the expiration of the interdict. Let the priest confess all who desire it in the portico of the church; if the church have no portico we direct that in bad or rainy weather, and not otherwise, the nearest door of the church may be opened and confessions heard on its threshold (all being excluded except the one who is to confess) so that the priest and the penitent can be heard by those who are outside the church.[1] If, however, the weather be fair, let the confession be heard in front of the closed doors. Let no vessels of holy water be placed outside of the church, nor shall the priests carry them anywhere, for all the sacraments of the church beyond these two which were reserved[2] are absolutely prohibited. Extreme unction, which is a holy sacrament, may not be given.

4. INTERDICT ON VENICE IN 1309.

Baronius' Annales, sub an. 1309, § 6. Latin.

The Venetians and the church having both laid claim to Ferrara the former proceeded to make good their rights by occupying the city with an armed force.

[1] Geraud remarks that this was almost equivalent to a formal prohibition of confession.

[2] i. e., infant baptism and the viaticum.

The pope replied by laying an interdict on Venice and declaring all debts owing her citizens to be forfeited. Other countries were invited to attack her commerce, and Edward II. of England with other rulers took occasion to repudiate his Venetian debts. Owing to the attacks on her trade and banking Venice was forced to yield entirely to the pope's demands.

And since a just quarrel had arisen because of such great sin on the part of the doge of Venice and the Venetian senate he[1] smote them with the anathema, especially mentioning by name Giovanni Soranzo who had wrested the domain of Ferrara away from the church, and Vitali Michieli who was ruling Ferrara in the name of the republic, and ordered them to restore the rule of the Roman church. He deprived all the Venetian territory of the use of the sacraments and of the rights of trade; he branded the magistrates with infamy and pronounced them deprived of the benefits and privileges of the law; and ordered ecclesiastics to leave the Venetian domains except such as were needed to baptize infants and to receive the confessions of the dying. Finally, if they persisted in their present course beyond the time fixed for submission, be pronounced the doge deprived of his authority and all the property of the Venetians confiscated, and declared that the kings of Europe would be summoned to direct their arms against them until they should restore Ferrara to the church.

5. INTERDICT OF UTRECHT IN 1426.

Matthaeus' edition of the Cronica de Trajecto, 2d ed., V. p. 456. Latin.

The growing use of the interdict for purely political purposes is here shown and indicates the chief reason for the declining force of the censure.

Now it is remarkable that this decree should have been passed notwithstanding the fact that the pope had deprived the city of the sacraments and pronounced an interdict upon it on account of its having received Rudolph; especially if you consider that not only is nothing severer than a papal interdict, but that nothing is likelier to stir up the common people against their magistrates and superiors. For under such circumstances the churches are closed, there are no divine services, no chants are heard, nor is there mass, nor do the faithful assemble together. There are no sacraments there, or confession, no baptism of any except infants. Even burial is forbidden. All become the prey

[1]Pope Clement V.

of Satan. The credulous people are persuaded that it is in the pope's power either to raise them to heaven or cast them down into hell. And yet neither the city nor the clergy paid any attention to these things. The pope's interdict was held in contempt and the clergy continued unhesitatingly to conduct divine services, especially after both the city and the nobles had promised to guard and protect them against all, even against the pope.

6. THE DOGE'S REPLY TO THE INTERDICT LAID ON VENICE IN 1606.

English translation found in Trollope's "Paul the Pope and Paul the Friar." pp. 381, 382.

Original Latin text in Magnum Bullarium Romanum, Tom. X. (Ed. Luxemburgi, 1741) pp. 177, 178.

In his prolonged quarrel with Venice pope Paul V. attempted to compel the repeal of two obnoxious laws by laying an interdict on the city, but this last serious attempt of the papacy to enforce its decrees by a general censure broke down before the determined opposition of the republic.

Leonardo Donato, by the Grace of God doge of Venice, etc., etc., to the most reverend, the patriarchs, archbishops and bishops of all our Venetian dominions, etc., etc., greeting:

It has come to our knowledge that on the 17th of April last past, by the order of the most holy father, Pope Paul V., there was published and posted up in Rome a so-called brief, which was fulminated against us, our senate, and the whole of our state; and that one was addressed to you, the tenor and contents whereof were similar to those of the other. We therefore find ourselves constrained to preserve in peace and tranquility the state which God has given us to rule; and, in order to maintain our authority as a prince, who in temporal matters recognizes no superior saving the Divine Majesty, we, by these our public letters, do protest before the Lord God and the whole world that we have not failed to use every possible means to make his Holiness understand our most valid and irrefragable case; first, by means of our ambassador residing at the court of his Holiness; then, by letters of ours in answer to briefs addressed to us by his Holiness; and, lastly, by a special ambassador sent to him to this effect. But having found the ears of his Holiness closed against us and seeing that the brief aforesaid is published contrary to all right reason and contrary to the teaching of the divine Scriptures, the doctrine of the holy fathers, and the sacred canons, to the prejudice of

the secular authority given us by God, and of the liberty of our state, inasmuch as it would cause disturbance in the quiet possession which, by divine Grace, under our government our faithful subjects hold of their properties, their honor and their lives, and occasion a most grave and universal scandal throughout the state; We do not hesitate to consider the said brief not only as unsuitable and unjust, but as null and void and of no worth or value whatever, and being thus invalid, vain, and unlawfully fulminated, *de facto nullo juris ordine servato*, we have thought fit to use in resisting it the remedies adopted by our ancestors and by other sovereign princes against such pontiffs as, in using the power given them by God to the use of edifying, have overstepped their due limits. . . . . And we pray the Lord God to inspire him [the pope] with a sense of the invalidity and nullity of his brief and of the other acts committed against us, and that He, knowing the justice of our cause, may give us strength to maintain our reverence for the holy apostolic see, whose most devoted servants we and our predecessors, together with this republic, have been and ever shall be.

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Lea, Henry C.: Studies in Church History. Philadelphia, 1883.

More than half of this book is taken up by an essay on excommunication, the most complete and satisfactory treatment of the subject that we possess. In it the rise and development of the censure are traced, the abuses that grew out of it are noted, and its gradual decline is explained.

TRANSLATIONS AND REPRINTS

FROM THE

ORIGINAL SOURCES OF EUROPEAN HISTORY.

VOL. III. ENGLISH MANORIAL DOCUMENTS. NO. 5.

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INTRODUCTION.

The manor was the most fundamental institution of mediaeval society. In the use of the term as a territorial expression, equivalent to *villa*, vill, or township, a manor was a stretch of country occupied by a rural population, grouped in a single village, or perhaps in several hamlets, each surrounded by its agricultural lands. Part of the land of the manor, known as the demesne, was cultivated by the lord of the manor through a bailiff or other officers, the remainder was occupied by tenants, free and serf, who cultivated their scattered holdings and, in the form of compulsory services, performed most of the labor on the demesne lands. The manor, in this sense, was the agricultural unit of the country, and had its own internal organization based upon the form of distribution of the land, the method of its cultivation, and the reciprocal relations of the demesne and the rest of the land. The greater part of England was divided into such manors, either contiguous or separated by unused stretches of moor, fen, or forest.

Some slight indications of this organization are discoverable from Anglo Saxon documents, from the entries of Domesday Book, and certain other early documents. But the fullest information is to be found in the surveys or *Extents* of the 13th and later centuries. These were drawn up from time to time for the information of the lord of the manor by a steward or other representative, who obtained his information from a group of the inhabitants of the manor who were put upon their oath for that purpose. Such a survey, inquisition, or extent usually gives a description of the kind, amount, and value of the demesne lands, a list of the inhabitants of the manor, with the amounts of land which they hold, the payments they make and the services they are bound to perform, with some information in regard to the peculiar local customs. A less formal and complete description of a manor is often spoken of as a *Rental* or *Custumal*.

For the actual processes of agriculture, in the case of the small farming tenants, we have not much direct information; but in the case of the demesne farm, full information as to both cultivation and administration is given not only in certain contemporary treatises, but in the bailiffs' accounts or *Compotus* rolls. These, of which large numbers exist, but of which only a few have been published, give detailed reports as to income and expenditure upon the manor farm. As this demesne farm was frequently of several hundred acres, besides pasture and woods, careful lords of manors, especially ecclesiastical corporations, insisted on minute reports of all details from the steward, bailiff, reeve, or other official in charge of each of their manors.

But the manor was not only a territorial and agricultural organization, it was also a political or legal body, a unit of jurisdiction. The same lord of the manor who held the demesne lands and received rents and agricultural services from the tenants, usually possessed also rights of jurisdiction over them. The court leet, court baron, customary court, and view of frank-pledge all habitually, if not necessarily, had the single manor as their sphere of action. The lord also had the power, usually, to impose tallages or aids upon his servile tenants at least. The inhabitants were therefore bound together into a single social group by this quasi-political subjection to the lord of the manor, no less than by the nature of their associative agriculture. It is this conception and existence of the manor as a separately organized group of people that gives rise to the expression "the custom of the manor," which occurs everywhere in documents connected in any way with local institutions as it dominated everywhere among these institutions. Statements of this custom of the manor, records of the daily life, and indications of the legal relations of the inhabitants of the country districts exist in remarkable fullness and detail in the rolls or records of the manor courts. These met at frequent intervals under the steward or other representative of the lord of the manor, and attendance was a general requirement from both free and servile tenants. Soon after the middle of the 13th century the proceedings at these meetings of the inhabitants of the manor began to be recorded, and for thousands, probably, of the petty rural communities such rolls exist or have existed, rivalling the records of the great royal courts in fullness, and frequently in interest. Usually a number of different manors were in the possession of one person or corporation, a nobleman, a monastery, a college of the University. The steward representing this lord would pass from one manor of the

group to another holding a court at each and having the proceedings recorded successively on one sheet of parchment or a series of sheets sewed together to form a roll. Or all the records of one manor would be preserved on one roll, all those of another on a second; in either case the rolls remaining in the custody of the lord. The manor courts were occupied with a great variety of matters; land transfers, enforcement of the rights of the lord and of the custom of the manor, punishment of offenses, settlement of civil disputes, adoption or promulgation of local statutes. Many characteristics of mediaeval society, the actual status of the villein tenants, the shadowy distinctions between bond and free, the relations of both to the lord of the manor, are to be discovered from these records rather than from formal legal treatises, contemporary though they be. Theoretical law was different even from the practice of the king's courts, far more so from the actual conditions where local custom was all powerful.

It should be noted that in addition to the two senses already discussed, the word *manerium* sometimes refers to the actual manor-house or principal building of the manor, occupied regularly or occasionally by the lord of the manor, when it was in the possession of an individual, or by some official if it was, as in so large a number of cases, held by some corporation.

Lastly, the manor is here treated entirely from the point of view of its internal organization. It may be remarked that in its outward relations the manor was in many ways the unit alike of the early national organization of England and of the later feudal system superimposed upon it. The hundred and county courts had their largest element in the representatives from each manor or township within their borders; the territories of a feudal noble or a monastery consisted of such and such manors; and even the king obtained his normal revenue from his income as lord of a vast number of manors.

Sme typical examples of each of the classes of manorial documents described above are given in the following pages.

I. EXTENTS, RENTALS, OR CUSTUMALS.

1. A DOMESDAY MANOR: HECHAM, ESSEX, A. D. 1086.

Domesday Book, II, 78 b.

In the form in which the Domesday record has been preserved, the entries are arranged under each county by landholders, the possessions of the king being named and described first, then those of the largest landholder, and so successively till freeholders are reached who have only a single manor, or sometimes only land in a manor.

Peter de Valence holds in domain Hecham, which Haldane a freeman held in the time of King Edward, as a manor, and as 5 hides. There have always been 2 ploughs in the demesne, 4 ploughs of the men. At that time there were 8 villeins, now 10; then there were 2 bordars, now 3; at both times 4 *servi*, woods for 300 swine, 18 acres of meadow. Then there were 2 fish ponds and a half, now there are none.

At that time there was 1 ox, now there are 15 cattle and 1 small horse and 18 swine and 2 hives of bees. At that time it was worth 60s., now 4£. 10s. When he received this manor he found only 1 ox and 1 planted acre. Of those 5 hides spoken of above, one was held in the time of King Edward by 2 freemen, and was added to this manor in the time of King William. It was worth in the time of King Edward 10s., now 22s., and William holds this from Peter de Valence.

2. A MANOR OF THE ABBEY OF PETERBOROUGH, ABOUT A. D. 1125.

Liber Niger Monasterii Sancti Petri de Burgo, in Chronicon Petroburgense, Camden Society, pp. 160-161.

The Black Book of Peterborough abbey, the contents of which have been printed as an appendix to the Chronicle of that abbey, contains the oldest manorial surveys, next to Domesday and the preceding Saxon documents. The date of its composition lies between 1125 and 1128.

In Werminton are 7 hides at the taxation of the king. And of this land 20 full villeins and 29 half-villeins hold 34 virgates and a half; and for these the full villeins work 3 days a week through the year; and the half tenants as much as corresponds to their tenancies. And all these men have 16 plows, and they plow 68 acres and a half, and besides this they do 3 boonworks with their plows, and they ought to bring from the woods 34 wagon loads of wood. And all these men pay 4£. 11s. 4d. And to the love feast of St. Peter 10 rams and 400 loaves and 40 platters and 34 hens and 260 eggs. And there are 8 socmen who have 6 plows. In the demesne of the court are 4 plows of 32 oxen and 9 cows and 5 calves, and 1 riding horse and 129 sheep and 61 swine and 1 draught-horse and 1 colt. And there is 1 mill with 1 virgate of land and 6 acres which pays 60s. and 500 eels. And Ascelin the clerk holds the church with 2 virgates of land, from the altar of St. Peter of Borough. Robert, son of Richard, has 2 virgates and a half. In this vill 100 sheep can be placed.

3. A MANOR OF THE HUNDRED ROLLS, A. D. 1279: ALWALTON, HUNDRED OF NORMANCROSS, COUNTY OF HUNTINGDON.

Rotuli Hundredorum, II, pp. 658-9.

The abbot of Peterborough holds the manor of Alwalton and vill from the lord king directly; which manor and vill with its appurtenances the lord Edward, formerly king of England gave to the said abbott and

convent of that place in free, pure, and perpetual alms. And the court of the said manor with its garden contains one half an acre. And to the whole of the said vill of Alwalton belong 5 hides and a half and 1 virgate of land and a half; of which each hide contains 5 virgates of land and each virgate contains 25 acres. Of these hides the said abbot has in demesne 1 hide and a half of land and half a virgate, which contain as above. Likewise he has there 8 acres of meadow. Also he has there separable pasture which contains 1 acre. Likewise he has there three water mills. Likewise he has there a common fish pond with a fish-weir on the bank of the Nene, which begins at Wildlake and extends to the mill of Newton and contains in length 2 leagues. Likewise he has there a ferry with a boat.

Free tenants. Thomas le Boteler holds a messuage with a court yard which contains 1 rood, and 3 acres of land, by charter, paying thence yearly to the said abbot 14s.

Likewise the rector of the church of Alwalton holds 1 virgate of land with its appurtenances, with which the said church was anciently endowed. Likewise the said rector has a holding the tenant of which holds 1 rood of ground by paying to the said rector yearly 12d.

And the abbot of Peterborough is patron of the church.

Villeins. Hugh Miller holds 1 virgate of land in villenage by paying thence to the said abbot 3s. 1d. Likewise the same Hugh works through the whole year except 1 week at Christmas, 1 week at Easter, and 1 at Whitsuntide, that is in each week 3 days, each day with 1 man, and in autumn each day with 2 men, performing the said works at the will of the said abbot as in plowing and other work. Likewise he gives 1 bushel of wheat for benseed and 18 sheaves of oats for foddercorn. Likewise he gives 3 hens and 1 cock yearly and 5 eggs at Easter. Likewise he does carrying to Peterborough and to Jakele and no where else, at the will of the said abbot. Likewise if he sells a brood mare in his court yard for 10s. or more, he shall give to the said abbot 4d., and if for less he shall give nothing to the aforesaid. He gives also merchet[1] and heriot, and is tallaged at the feast of St. Michael, at the will of the

[1] Merchet, from Latin *maritagium*, was a payment collected by the lord of the manor, usually from the father of a girl on her marriage, but also frequently from widows remarrying, and even from men of villein status on their marriage. The payment of merchet was one of the most constant tests of villenage. See Sel. Pl. in Manorial Courts., Selden Soc. I. 94.

said abbot. There are also there 17 other villeins, viz. John of Ganesoupe, Robert son of Walter, Ralph son of the reeve, Emma ate Pertre, William son of Reginald, Thomas son of Gunnilda, Eda widow of Ralph, Ralph Reeve, William Reeve, William son of William Reeve, Thomas Flegg, Henry Abbott, William Hereward, Serle son of William Reeve, Walter Palmer, William Abbot, Henry Serle; each of whom holds 1 virgate of land in villenage, paying and doing in all things, each for himself, to the said abbot yearly just as the said Hugh Miller. There are also 5 other villeins, viz. Simon Mariot, Robert of Hastone, Thomas Smith, John Mustard, and William Carter, each of whom holds half a virgate of land by paying and doing in all things half of the whole service which Hugh Miller pays and does.

Cotters. Henry, son of the miller, holds a cottage with a croft which contains 1 rood, paying thence yearly to the said abbot 2s. Likewise he works for 3 days in carrying hay and in other works at the will of the said abbot, each day with 1 man and in autumn 1 day in cutting grain with 1 man.

Likewise Ralph Miller holds a cottage with a croft which contains a rood, paying to the said abbot 2s.; and he works just as the said Henry.

Likewise William Arnold holds a cottage with a croft which contains half a rood, paying to the abbot 2d.; and he works just as the said Henry.

Likewise Hugh Day holds a cottage with a croft which contains 1 rood, paying to the abbot 8d.; and he works just as the said Henry.

Likewise Sara, widow of Matthew Miller, holds a cottage and a croft which contains half a rood, paying to the said abbot 4d.; and she works just as the said Henry.

Likewise Sara, widow of William Miller, holds a cottage and a croft which contains half a rood, paying to the abbot 4d.; and she works just as the said Henry.

Likewise William Kendale holds a cottage and a croft which contains 1 rood, paying to the abbot 8d.; and he works just as the said Henry.

Likewise Agnes the widow holds a cottage with a croft which contains 1 rood, paying thence yearly 12d.; and she works just as the said Henry.

Likewise Geoffrey Note holds a cottage and croft which contains half a rood; paying yearly 8d.; and he works just as the said Henry.

Likewise Beatrice the widow holds a cottage and croft which contains half a rood, paying to the abbot 8d.; and she works just as the said Henry.

Likewise Henry of Aylingtone holds a cottage with a croft which contains half a rood, and 1 acre of land, paying to the abbot 2s. 8d.; and he works just as the said Henry.

Likewise Benedict Atelane holds a cottage with a croft which contains half a rood, paying to the abbot 8d.; and he works just as the said Henry.

Likewise Geoffrey Baker holds a toft and croft, and it contains half a rood, paying to the abbot 4d.; and he works just as the said Henry.

Likewise Robert Prenk holds a cottage with a croft which contains half a rood, paying to the said abbot 4d.; and he works just as the said Henry.

Likewise Roger Doket holds a cottage with a croft which contains half a rood, paying to the abbot 4d.; and he works just as the said Henry.

Likewise Geoffrey Drake holds a cottage with a croft which contains half a rood, paying to the abbot 4d.; and he works just as the said Henry.

Likewise Sara the widow holds a cottage with a croft which contains a rood, and a half acre of land, paying to the abbot 8d.; and she works just as the said Henry.

Likewise William Drake holds a cottage with a croft which contains half a rood, paying to the abbot 6d.; and he works just as the said Henry.

There are there also 6 other cotters, viz. William Drake Jr., Amycia the widow, Alice the widow, Robert son of Eda, William Pepper, William Coleman, each of whom holds a cottage with a croft which contains half a rood, paying and doing in all things, each for himself, just as the said William Drake.

Likewise William Russel holds a cottage with a croft which contains half a rood, paying to the abbot 8d.; and he works in all things just as the said Henry Miller.

There are moreover there 5 other cotters, viz. Walter Pestel, Ralph Shepherd, Henry Abbot, Matilda Tut, Jordan Mustard, each of whom holds a cottage with a croft which contains half a rood, paying thence and doing in all things to the said abbot just as the said William Russel.

Likewise Beatrice of Hampton holds a cottage and croft which contains 1 rood, paying to the abbot 12d.; and she works in all things just as the said Henry.

Likewise Hugh Miller holds 3 acres of land paying to the abbot 42d.

Likewise Thomas, son of Richard, holds a cottage with a croft which contains half a rood, and 3 acres of land, paying to the abbot 4s. and he works just as the said Henry.

Likewise Ralph Reeve holds a cottage with a croft which contains 1 rood, and 1 acre of land, paying to the abbot 2s.; and he works just as the said Henry.

Likewise each of the said cottagers, except the widows, gives yearly after Christmas a penny which is called head-penny.

4. EXTENT OF THE MANOR OF BERNEHORNE, SUSSEX. A. D. 1307.

Custumals of Battle Abbey, Camden Society, pp. 17-22.

Extent of the manor of Bernehorne, made on Wednesday next after the feast of St. Gregory the Pope, in the thirty-fifth year of the reign of King Edward, in the presence of Brother Thomas, keeper of Marley, John de la More, and Adam de Thruhlegh, clerks, on the oath of William de Gocecoumbe, Walter le Parker, Richard le Knyst, Richard the son of the latter, Andrew of Estone, Stephen Morsprich, Thomas Brembel, William de Swynham, John Pollard, Roger le Glide, John Syward and John de Lillingewist, who say etc., that there are there all the following things:

The jurors say that the principal messuage and its garden with the herbage and curtilage are worth yearly 6s. 8d.; and the dovecote is worth yearly 5s.; and the windmill is worth yearly 20s.

And there are there 12 acres of thick undergrowth whence the pannage and herbage are worth yearly 2s.

And there are there 42 acres of maritime[1] land in a certain place called Scotsmarsh, each acre of which is worth yearly 12d., the sum being 42s.

And there are there 7 acres and 1 rood of maritime land in a certain place called Aldithewisse; and 47 acres and 3 roods of maritime

[1] Apparently land which was close to the salt marsh but yet capable of being cultivated, since agricultural services of the villein tenants are mentioned subsequently.

land in a certain place called Flittermarsh, each acre of which is worth yearly 12d. the sum being 55s.

And there are there 22 acres of maritime land in two places called Pundfold and Longrech; and 7 acres of maritime land in a certain place called Wyssh, and 8 acres and 3 roods of maritime land in a certain place called Upcroft marsh, and 3 acres and a half of maritime land in a certain place called Redewysshe; and each acre is worth yearly 12d.: the sum being 41s. 3d.

And there are there 19 acres, 1 rood of maritime land in a certain place called Berghamsmarsh, and 7 acres in a certain place called Pammarsh, and 3 acres and 1 rood of maritime land beyond the wall of Flittermarsh and Longreche; and each acre is worth yearly 12d.: the sum being 29s. 6d.

And there are there 15 acres of marshy land in a certain place called Swynhamme and 66 acres of marshy land in a certain place called Hoobrokes, each acre of which is worth now 4d. a year; and the foresaid marshy lands, if they should be properly drained will be worth 10d. per acre yearly; the sum being 4£. 4s. 2d.

And there are there 18 acres of waste land in the fields called Welleland and Hammes, and 21 acres of land in the fields called Panden and Panylond, each acre of which is worth yearly 6d.: the sum being 19s. 6d.

And there are there 24½ acres in the field of Berghamme, and each acre is worth yearly 6d.: the sum being 12s. 3d.

And there are there 34 acres of land in a certain place called Swynhamme, and 56 acres of land in a certain field called Hoolonde, of which each acre is worth yearly 3d. and the sum is 22s. 6d.

And there are there 30½ acres of land in the fields called Eldeton and Furneyslland, and 12 acres of land in the fields called Pleme and Schebbecroft and Robertsmarsh, and each acre is worth yearly 3d.; the sum being 10s. 7½d.

And there are there 6 acres and 1 rood of meadow in a certain place called Hoolonde, and 6 acres of meadow in a certain place called Robertsmarsh, and 1 acre of meadow near Robertswood, otherwise called Rokeswood, each acre of which is worth 18d. a year; and the sum is 19s. 10½d.

The total of the acres of woods is 12 acres.

The total of the acres of arable land is 444 acres and 3 roods, of

which 147 acres 4 roods are maritime land, 101 acres marshy land, and 180 acres waste ground.

The total of the acres of meadow is 13 acres 1 rood.
The total of the whole preceding extent 18£. 10s. 4d.

John Pollard holds a half acre in Aldithewisse and owes 18d. at the four terms, and owes from it relief and heriot.

John Suthinton holds a house and 40 acres of land and owes 3s. 6d. at Easter and Michaelmas.

William of Swynhamme holds 1 acre of meadow in the thicket of Swynhamme and owes 1d. at the feast of Michaelmas.

Ralph of Leybourne holds a cottage and 1 acre of land in Pinden and owes 3s. at Easter and Michaelmas, and attendance at the court in the manor every three weeks, relief and heriot.

Richard Knyst of Swynhamme holds 2 acres and a half of land and owes yearly 4s.

William at Knelle holds 2 acres of land in Aldithewisse and owes yearly 4s.

Roger le Glede holds a cottage and 3 roods of land and owes 2s. 6d. at Easter and Michaelmas.

Alexander Hamound holds a little piece of land near Aldewisse and owes 1 goose, of the value of 2d.

The sum of the whole rent of the free tenants, with the value of the goose, is 18s. 9d.

They say moreover that John of Cayworth holds a house and 30 acres of land, and owes yearly 2s. at Easter and Michaelmas; and he owes a cock and two hens at Christmas, of the value of 4d.

And he ought to harrow for 2 days at the Lenten sowing with one man and his own horse and his own harrow, the value of the work being 4d.; and he is to receive from the lord on each day 3 meals, of the value of 5d., and then the lord will be at a loss of 1d. Thus his harrowing is of no value to the service of the lord.

And he ought to carry the manure of the lord for 2 days with one cart, with his own 2 oxen, the value of the work being 8d.: and he is to receive from the lord each day 3 meals of the price as above. And thus the service is worth 3d. clear.

And he shall find one man for 2 days for mowing the meadow of the lord, who can mow, by estimation 1 acre and a half, the value of the

mowing of an acre being 6d.: the sum is therefore 9d. and he is to receive each day 3 meals of the value given above; and thus that mowing is worth 4d. clear.

And he ought to gather and carry that same hay which he has cut, the price of the work being 3d.

And he shall have from the lord 2 meals for 1 man, of the value of 1½d. Thus the work will be worth 1½d. clear.

And he ought to carry the hay of the lord for 1 day with a cart and 3 animals of his own, the price of the work being 6d. And he shall have from the lord 3 meals of the value of 2½d. And thus the work is worth 3½d. clear.

And he ought to carry in autumn beans or oats for 2 days with a cart and 3 animals of his own, the value of a work being 12d. And he shall receive from the lord each day 3 meals of the value given above: and thus the work is worth 7d. clear.

And he ought to carry wood from the woods of the lord as far as the manor[1] for two days in summer with a cart and three animals of his own the value of the work being 9d. And he shall receive from the lord each day 3 meals of the price given above, and thus the work is worth 4d. clear.

And he ought to find 1 man for 2 days to cut heath, the value of the work being 4d. and he shall have 3 meals each day of the value given above; and thus the lord will lose, if he receives the service, 3d. Thus that mowing is worth nothing to the service of the lord.

And he ought to carry the heath which he has cut, the value of the work being 5d. And he shall receive from the lord 3 meals at the price of 2½d. And thus the work will be worth 2½d. clear.

And he ought to carry to Battle twice in the summer season, each time half a load of grain, the value of the service being 4d. And he shall receive in the manor each time 1 meal ot the value of 2d. And thus the work is worth 2d. clear.

The total of the rents, with the value of the hens is 2s. 4d.

The total of the value of the works is 2s. 3½d.; owed from the said John yearly.

William of Cayworth holds a house and 30 acres of land and owes at Easter and Michaelmas 2s. rent. And he shall do all customs just as the foresaid John of Cayworth.

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[1] i. e., the manor-house.

William atte Grene holds a house and 30 acres of land and owes in all things just as the said John.

Alan atte Felde holds a house and 16 acres of land, (for which the sergeant pays to the court of Bixley 2s.)[1] and he owes at Easter and Michaelmas 4s., attendance at the manor court, relief and heriot.

John Lyllingwyst holds a house and 4 acres of land and owes at the two terms 2s., attendance at the manor court, relief and heriot.

The same John holds one acre of land in the fields of Hoo and owes at the two periods 2s., attendance, relief and heriot.

Reginald atte Denne holds a house and 18 acres of land and owes at the said periods 18d., attendance, relief and heriot.

Robert of Northehou holds 3 acres of land at Saltcote and owes at the said periods attendance, relief and heriot.

Total of the rents of the villeins, with the value of the hens, 20s.

Total of all the works of these three villeins, 6s. 10½d.

And it is to be noted that none of the above named villeins can give their daughters in marriage nor cause their sons to be tonsured,[2] nor can they cut down timber growing on the lands they hold, without license of the bailiff or sergeant of the lord, and then for building purposes and not otherwise. And after the death of any one of the foresaid villein the lord shall have as a heriot his best animal, if he had any ; if however he have no living beast the lord shall have no heriot, as they say. The sons or daughters of the foresaid villeins shall give for entrance into the holding after the death of their predecessors as much as they give of rent per year.

Silvester the priest holds 1 acre of meadow adjacent to his house, and owes yearly 3s.

Total of the rent of tenants for life, 3s.

Petronilla atte Holme holds a cottage and a piece of land and owes at Easter and Michaelmas . . ; attendance, relief, and heriot.

Walter Herying holds a cottage and a piece of land and owes at Easter and Michaelmas 18d., attendance, relief, and heriot.

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[1] Bixley was a neigboring manor, held by the Bishop of Chichester, having certain claims over some of the land in the manor of Bernehorne.

[2] That is to let them enter the clergy. This was not only a common prohibition according to the custom of many manors but was enacted in statute law. "Sons of rustics ought not to be ordained without the assent of the lord on whose land they are known to have been born." Constitutions of Clarendon, c. 16. (A. D. 1164).

Isabella Mariner holds a cottage and owes at the feast of St. Michael 12d., attendance, relief, and heriot.

Jordan atte Melle holds a cottage and 1 acre of land and a half and owes at Easter and Michaelmas 2s., attendance, relief, and heriot.

William of Batelesmere holds 1 acre of land with a cottage and owes at the feast of St. Michael 3d., and 1 cock and 1 hen at Christmas, of the value of 3d., attendance, relief, and heriot.

John le Man holds half an acre of land with a cottage, and owes at the feast of St. Michael 2s., attendance, relief, and heriot.

John Werthe holds 1 rood of land with a cottage and owes at the said term 18d., attendance, relief, and heriot.

Geoffrey Caumbreis holds half an acre and a cottage and owes at the said term 18d., attendance, relief, heriot.

William Hassok holds 1 rood of land and a cottage and owes at the said term 18d., attendance, relief, and heriot.

The same man holds 3½ acres of land and owes yearly at the feast of St. Michael 3s. for all.

Roger Doget holds half an acre of land and a cottage which were those of R. the miller, and owes at the feast of St. Michael 18d., attendance, relief, and heriot.

Thomas le Brod holds 1 acre and a cottage and owes at the said term 3s., attendance, relief, and heriot.

Agnes of Cayworth holds a half acre and a cottage and owes at the said term 18d., attendance, relief, and heriot.

Agnes of Badlesmere holds 1 acre of land and a cottage and owes at the said term 3s., attendance, relief, and heriot.

William atte Whaunne holds one acre of land and owes at Easter and Michaelmas 2s., and relief.

Total of the rents of the said cottagers, with the value of the hens 34s. 6d.

And it is to be noted that all the said cottagers shall do as regards giving their daughters in marriage, having their sons tonsured, cutting down timber, paying heriot, and giving fines for entrance just as John of Cayworth and the rest of the villeins formerly mentioned.

Note, fines[1] and penalties, with heriots and reliefs are worth yearly 5s.

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[1] A "fine" was a payment made to the lord by anyone who acquired land in the manor in any other way than by inheritance, in which case the payment was relief. The usual word for a penalty was "amerciament," or it was recorded that a person was "in mercy."

II. YEARLY ACCOUNT OF MANOR OF CUXHAM, A.D. 1316–17.

Rogers: History of Agriculture and Prices in England, II, 617-622.

Compotus of Robert Oldman, reeve of Cuxham, from the morrow of St. James, in the 10th year of the reign of king Edward, to the morrow of St. James in the next following year, that is the beginning of the 11th year of the reign of king Edward.

Arrearages. He is charged with 6£. 19½d. of arrearages from the preceding account. Total 6£. 19½d.

Rents of Assize. He is charged with 13s. 1d. of rent of the period of St. Michael; and with 11¾d. from the foldage of the animals at the feast of St. Martin; and with 6s. 1½d. of rent of the period of St. Thomas . . . . . for the same; and with 5s. 1½d. at the period of St. John; and with 18d. of new rent for 1 acre of land granted to Robert Taylor. Total 38s. 10¾d.

Rent. He is charged with 40s. of rent of the water mill: and with 13s. 4d. of yearly rent of the fulling mill. Total 53s. 4d.

Sale of Wheat. He is charged with 4£. 16s. for 6 quarters of wheat sold Thursday next before the first of August, at 16s. a quarter: and with 10d. for 1 bushel of wheat sold in the autumn to William Walderugge because the keeper granted this to him: and with 6£. 6s. for 9 quarters of wheat sold before the feast of All Saints at 14s. a quarter. And with 4£. 16s. for 6 quarters of wheat sold on the Thursday next before the feast of St. Michael, at 16s. a quarter.

Total 15£. 18s. 10d.

Sale of Peas and Oats. He is charged with 24s. for 2 quarters and 2 bushels of peas sold, at 10s. 8d. a quarter. And with 8s. 8d. for 1 quarter and 5 bushels of oats sold, at 5s. 4d. a quarter. Total 32s. 8d.

Sale of Malt. He is charged with 17s. 6d. for one quarter and 2½ bushels of malted barley sold, at 13s. 4d. a quarter. And with 16s. 3d. for 1 quarter and 5 bushels of malted drage sold, at 10s. a quarter.

Total 33s. 9d.

Sale of Animals. He is charged with 15s. for 1 work horse sold: and with 40s. for 4 oxen sold: and with 12s. for 1 cow sold in the autumn because she was barren: and with 11s. for 1 cow sold because she was barren: and with 8s. for 1 cow sold because she was weak and old: and with 4s. 6d. for 1 young bull sold because he was weak: and with 11s. 1d. for 7 calves sold, the price of each being 19d.; and with 18d. for 2 sheep sold in winter before the shearing because they were

weak: and with 5s. 11½d. for 13 geese, the price of each goose being 5½d.: and with 11s. 1d. for 4 score of pigeons sold. Total 7£. 17s. 1½d.

Products of the Manor. He is charged with 9d. for swine running in the stubble in the autumn, as shown in the items: and with 5½d. for sheepskins sold: and with 2s. 6d. for works of Richard Est sold in the winter: and with 2s. 6d. for works of Adam Brian sold in the winter: and with 15d. for works of Joanna Bonecherche sold in the winter: and with 2s. for 1 perna of bacon: and with 12d. for peas-straw sold: and with 11s. 3d. of present bread of the customary tenants sold at the feast of Christmas: and with 18½d. for 308 eggs sold, viz., 16 for 1d.: and with 33s. for 5½ stone of wool sold, the price of a stone being 6s., that is the stone weighing 16 lbs. and containing 42 fleeces.

Total 47s. 3d.

Products of the Dairy. He is charged with 5s. 8d. for 17 cheeses of the fourth form sold, the price of each 4d.: and with 18s. 3d. for 73 cheeses of the third form sold, the price of each 3d.: and with 4s. 10d. for 29 cheeses of the second form sold, the price of each 2d.: and with 6d. for 6 cheeses of little form sold: and with 22d. for milk sold from the Thursday next after the feast of St. Thomas the Apostle to the morrow of the Annunciation of the Blessed Mary: and with 3s. 1d. for butter sold in autumn and in winter: and 6d. for milk sold between the feast of the Annunciation and the Thursday next after the feast of St. John before the Latin Gate: and with 10d. for 5 cheeses of the second form sold within this year: and with 12d. for butter sold in summer, and not more because 3½ jars of butter have been sent to Oxford.

Total 36s. 6d.

Fines of Land and Heriot. He is charged with 40s. from Thomas Canon as a fine for the land which was Adam atte Hethe's: and with 30s. from William Burdon as a fine for the land which was Robert Wyte's: and 2s. for a copper pot coming as a heriot from Adam atte Hethe, which was sold. Total 72s.

Pleas and Perquisites. He is charged with 3s. 7d. of perquisites of the court held Wednesday next after the feast of St. Mary Magdalen.

Total 3s. 7d.

Outside Receipts. He is charged with 12d. of perquisites of the court of Ibestane held Thursday next after the feast of St. Mary Magdalen: and for 13s. 4d. received from John, son of John Coleman, as a fine for the land which belonged to John the Wyte of Ibestane: and with 13s. 4d. received from Amisia, daughter of John Coleman, as a

fine for the land which belonged to John the Baker of Ibestane: and with 37s. 6d. for 51 skins of wool sold in the past year which weighed 5 stones, viz., the stone being 16 lbs., the price of a stone being 5s. 6d.

Total 56s. 10d.

Total of all the receipts with arrearages 48£. 17s. 4½d.

EXPENSES.

Quittances of his own rent. In quittance of his own rent of Waterilond 1d.: and for present bread 2d.: and for saltsilver ½d. Total 3½d.

Cost of the plows. For 6 pieces of steel bought for the plows 5s. 10d.: for 3 pieces of steel bought for the same 3s. 7d.: for 1 piece of steel bought 15d.: for 6 wheels bought 18d.: for poles bought for the third plow 2½d.: for the wages of the blacksmith for repairing the plowshares between the feast of St. James and the feast of St. Michael 2s.: for shoeing the draught horses in the same period 18½d. Likewise in payment of the blacksmith for the repair of the plowshares between the feast of St. Michael and the feast of St. Thomas the Apostle 3s.: for shoeing the draught horses during the same time 18d. In payment to the blacksmith for mending the plowshares between the feast of St. Thomas and the feast of the Annunciation 2s. 1d.: for shoeing the draught horses during the same time 16d. Likewise in payment to the blacksmith for the repair of the plowshares between the feast of the Annunciation and the feast of St. James, 4s. 6d. For shoeing the draught horses during the same time 17d. For 4 horse-shoes bought, 16d.: for 2 trees for timber for the plows 3s.: for cutting down and hauling the same 4d. Total 34s. 4d.

Cost of the carts. For 17 clouts bought, 21d.: for 100 clout nails bought, 2½d.: for 1 pair of packsaddles and 3 collars bought, 3s. For 1 pair of traces bought, 6d.: for leather bought for harness 12d.: for 5lbs. of grease, 15d., at 3d. per pound: for 1 pair of wheels without tires bought, 2s. 4d.: for 1 rear cord bought, 1½d.: for the shoeing of 2 cart-horses between the feast of St. James and the feast of St. Michael 18d.: and the feast of St. Michael and the feast of St. Thomas the Apostle 19d.: and between the feast of St. Thomas and the Annunciation 20d. For the shoeing of 3 cart-horses from the feast of the Annunciation to the feast of St. James 2s. 1½d. Total 17s. 3d.

Small necessary Expenses. For 2 hair ropes bought, of which one was of 6 fathoms and another of 11 fathoms, for keeping the draught horses in the pasture, 9d.: for iron bought at Pyrtone 22s.: for

iron bought from Robert Weylond 18d.: for a dish for meat and 4 other dishes because it was autumn 4d.: for 6 bushels of salt bought, 12s.: for 3 bushels of salt bought, 3s. 6d.: for the custom of the cotters for carrying the fold 2d.: for 7½ quarters of drage bought for feeding the swine 4s. 10d., at different prices. For brushwood bought for the hearths 3s. 6d.: for 3 quarters and 2 bushels of gleanings bought for the swine, of which 5 bushels were sent to Oxford 8s. 8d., the price per quarter being 2s. 8d.: for 1 knife bought for cutting the vegetables for the servants: for rods bought for wattling the fold 8d.: for 12 clouts bought for the fold 2s.: for rods bought for the harrows 2½d.: for fines bought 18d.: given for the tithe of 7 calves sold, 13½d.: and for the tithe of 3 calves remaining 1½d.: and for the tithe of 1 lamb, ½d.: and for the tithe of 4 skins sold, ½d. For milk bought for the lambs 4½d.: for washing and shearing the sheep, 6d.: for making 4 halters of horsehair 1d.: for expenses of the reeve at Henley for 6 days, selling grain, 9d.: for the expenses of the clerk when he made the account 12d.: for parchment bought for the account, 1½d.: for pasture bought at Pyrtone, 18d.: for hay bought for next year, 22s. 3d. Total 4£. 9s. 8½d.

Cost of the Dairy. For rennet bought, 6d.: for cloth bought for the dairy, 3d.: for pots bought, 3½d. Total 12½d.

Purchase of Grain. For 2 quarters and 2 bushels of oats bought on account of the lack of threshing, 9s., the price of a quarter being 4s.: for 5 bushels of vetches bought, 7s. 6d., the price of a bushel being 18d.: for 1 quarter of barley bought, 10s. 2d. Total 26s. 8d.

Purchase of Animals. For 1 draught horse bought on St. James' Day 22s. 6½d.: for 1 draught horse bought in Easter week 14s. 4d.: for one cow bought in the autumn, before calving, 11s. 1d. Total 45s. 11½d.

Cost of the Buildings. For one man and his helper hired for 22 days to put a roof on 2 barns, a hay-mow, and the kitchen, 11s., being 6d. a day: for 2 women helping them for 10 days, 3s., being 2d. a day. For 1000 lath-nails bought, 11d.: for poles bought for prys, 6d. For one man hired for 4 days to roof 2 cottages of the vill, 16d., at 4d. a day: for poles bought for prys, 2d.: for one woman helping him 4d. For 2 quarters of lime bought, 8d. Total 17s. 11d.

Cost of the Mill. For timber bought to renew the water wheel of the mill: for nails bought for the same 6d. Total 3s. 10d.

Threshing and Winnowing. For the expenses of Peter of Wantage while he was having the threshing done, 5s. 2d.: for the thresh-

ing of 9 quarters and 6 bushels of wheat by task, before the feast of St. Michael, 3s. 3d., the price of a quarter being 4d.: for 3 bushels of wheat threshed, at task, after the feast of St. Michael, 9d. For the winnowing of the same 2d., because the dairyman winnowed one-half. For the threshing of 12 quarters and 1 bushel of wheat and 2½ quarters of peas, in the time of master John of Tube, 3s. 7¾d., the price of a quarter being 3d.: for winnowing the same 2½d., because the dairyman winnowed one half, being 3 quarters for 1d. For the expenses of master John of Tube while he was having the threshing done, 7s. 4¾d., besides some wheat. For the expenses of John of Odiham while he was having the threshing done, 22d., besides some of the produce of the oats. For the expenses of master Walter of Durton while he was having the threshing done, 3s. 3d., for the same time. For the expenses of master John of Crofton while he was having the threshing done, 8d., besides some of the wheat. For the threshing of 1 quarter and 3 bushels of wheat in the time of Walter of Durton, 4¼d.: for the winnowing of the same 1 farthing. Total 27s. 6½d.

Weeding and Mowing. For 20 men hired for 8 days to pull bitter weeds and cut thistles in the grain, 13s. 4d., a penny a day to each one. For the custom of the mowers for medsipe, for hauling hay 2d.: for the custom of 12 cottagers stacking hay, 6d. For mowing the garden, 2s. 1d. Total 16s. 7d.

Autumn Expenses. For reaping 33 acres and 1 rood of wheat, at task, 22s. 10d., during the time of master William Boliner, the price of an acre being 8d. For reaping 44½ acres of drage and oats at task, 31s. 9½d., the price of an acre being 7d., through the same time. For reaping 6 acres of drage and oats, at task, 3s., during the same time, the price of an acre being 6d. For the expenses of master William Boliner, Peter of Wantage, the reeve, hayward, and dairyman through 4 weeks in autumn, and at the coming of the keeper and others who came after, 15s. 1d., through the same time. For 3 men hired at the park of Pyrtone, 6d. Total 73s. 2½d.

Wages of Servants. For the wages of 2 hostlers in the winter season, 4s., also for 2 drivers, 3s., also for the carter 2s., also for the shepherd 12d., and not more because he kept the sheep of others; also to the cowherd in winter, 12d., likewise to the dairyman 12d. For the payment to the clerk who drew up the account, 2s., and 2s. as a gratuity. Total 16s.

Expenses of the Steward. For the expenses of the steward

in holding the courts of Cuxham and Ibstane Monday and Tuesday next after the feast of St. Mary Magdalen, bread from the store-room, for ale 22d., for meat 5d. Total 2s. 3d.

Expenses of the Keeper. For the expenses of the keeper on his coming from London on the morrow of St. Frideswide's, bread from the store-room. For ale, 4d., for one sheep given to the servants, 3d., and to the baliff of the king, 12d., and to the hayward of Pyrtone, at the order of the keeper, 12d. For the expenses of the same near Hokeday, staying 5 days, bread from the store-room; for ale, 2s. 11d., for meat 11s. 5d.: besides bacon from the store-room, for peas 6d., for bridles, 4d.; given to the baliff of the king 6d., and to the servants 4d., and to a man coming from Scotland to the lord king, 6d. Total 10s. 2d.

Outside Expenses. For the expenses of the bailiffs of Maldon, Ledrede, and Farley, in coming to the account and in returning; bread and cheese from the store-room, for ale 12d. For the expenses of the carter of Chetindone coming from Oxford and of the carters of Haliwell on their coming to Bredefeld to get timber there, bread and cheese from the store-room; for ale 8d. For the expenses of the same and of the carter of Cuxham on the way to Bredefeld four times and on the way to Alrəmanson twice, with the expenses of one man going with him twice, 5s. 6d. For 6 clouts with nails bought for the cart from Chetindone, 9d. For hay bought on the way for the horses, 12d. For the expenses of the tax collectors of the sixteenth penny, bread and cheese from the store-room, for ale 7½d.; given to the same 6s. 8d. Given to the lord king for the sixteenth penny 28s. For poles bought as prys for preparing timber 3d.: for one man and his helper hired for 3 days at preparing timber 18d.: for one woman helping them for 2 days, 2d. For the expenses of 2 men coming to Maldon to hunt for a pig there, bread and cheese from the store-room, ale, 2d. For eggs 1d. For the expenses of the 2 men driving a pig to Chetindone, 6d. For the expenses of lord Stephen of Chenidant, Friday next before the feast of St. Thomas the Apostle, bread and cheese from the store-room, ale 2d. For the expenses of 4 masters coming to Reading for orders and returning about the feast of St. Thomas the Apostle, bread 5d., beside bread from the store-room, ale 13d., garlic, 1d., cheese from the store-room. For shoeing 3 horses of the cart of Chetindone and for mending the broken strakes and hooks of the cart, 15d. For the expenses of master Adam of Hystede coming from London on the morrow of St. Agatha the Virgin, bread from the store-room, ale 4d. For the expenses of a man

of the king and his servant coming from Oxford to mark the door of the barn, Thursday next after the conversion of St. Paul; and the same servant remained for 2 days; and of another servant who came to him and remained 2 days; bread and cheese from the store-room, ale 8d., meat 3d., eggs 1d. Also given to the said men of the lord king, 2s. For hauling 4 casks and 1 pipe from London to Henley 6s. 9d., at 18d. a cask and 9d. for the pipe. For a house hired for storing the said casks at Henley, 6d.: for rolling the said casks into the house and out of the house again when they had to be put into the cart, 7d; for placing the same in the cart, 9d., for hauling the same from Henley to Cuxham, 18d. For expenses at Cuxham. For 2 men coming from Oxford to get one cask, bread and cheese from the store-room, ale 2d., garlic 2d. For the expenses of the bailiff of Ledrede going to Oxford and returning, about the feast of St. Osyth the virgin, bread from the store-room, ale 2½d., eggs 1d., cheese from the store-room. For 164 eggs bought for the account, 12d. Total 65s. 1d.

Total of all expenses 22£. 7s. 9½d.

And he owes 26£. 9s. 7½d.

III. MANOR COURT ROLLS.

1. MANOR COURT ROLLS OF GREAT CRESSINGHAM, NORFOLK. 1328–9.

Five Court Rolls of Great Cressingham, Edited and Translated by Henry W. Chandler, Privately Printed, London. 1885. pp. 17-35.

A Court in the same place (Great Cressingham), on Monday next after the feast of the Nativity of the Blessed Mary in the year of the reign of King Edward above mentioned. (i.e., Edward III; Sept 12th 1328.)

Excuse. William of Glosbridge, attorney of Sir Robert de Aspale by the common excuse through W. Prat. (He came afterwards.)

Order. It was ordered, as before, to distrain Master Firmin to show by what right, etc., concerning the tenement Walwayn. Likewise to distrain Sir John Walwayn for fealty.

Amerciament, 3d. From Petronilla of Mintling for leave to agree with William Attewente, concerning a plea of trespass.

Order. It was ordered to distrain Peter the Cooper for 15d. which he owed to Roger the Miller, at the suit of William Attestrete, who proved against him four shillings in court.

Fine, 12d. From Walter Orengil for his term of four years to hold in 6 acres of land rented from Gilbert Cloveleke, for which grant the

said Walter is to pay annually, at the feast of All Saints, to the said Gilbert four quarters and four bushels of barley, during the said term.

Pledges Nally and John Buteneleyn.

Amerciament, 2d. From John Brichtmer because he was summoned to do one boon-work in autumn and did not come. Therefore he is to be amerced.

Amerciament, 2d. From Alice, wife of Richard of Glosbridge, for the same.

Amerciament, 2d. From William Robyn for the same.

Order. From Walter Page and Margaret his wife, because they cannot deny that they are keeping back from John of Euston 3d.; and therefore it was ordered that the said 3d. should be levied from the said Walter to the use of the said John. (Reversed, because he is poor.)

Fine, 4d. Martin the son of Basil and Alice his wife having been examined by the bailiff, surrendered into the lord's hand one rood of land with a cottage thereon, to the use of Isabel daughter of John Fayrsay and their heirs, to hold in villenage at the will of the lord, doing etc. all rights being saved. And she gives, etc.

Fine, 4d. Isabel Fayrsay surrendered into the lord's hands one rood and one quarter of a rood of land and one rood of meadow and half of a cottage to the use of Martin Basil's son and Alice his wife and their heirs, to hold in villenge at the will of the lord, doing etc. All rights being saved. And he gives to the lord.

Fine, 4d. From John Pye for his term of five years to hold in three roods of land rented from Hugh Holer. The term begins at the feast of St. Michael.

Fine, 4£. It is to be remembered that the lord out of his seisin delivered and gave to Vincent of Lakinham one messuage, 7 acres 2½ roods of land of the villenage of the lord, which had been taken into the lord's hand after the death of William the son of Hugh because the aforesaid William was a bastard son and died without heirs, to hold of him to the aforesaid Vincent and his heirs, in villenage at the will of the lord, doing thence the services and customs due. All rights being saved. And he gives to the lord for his entry. And saving to Alice who was wife of Hugh the son of Lawrence half of the said tenements to hold in dower for the term of her life.

Note, 1 beast; price 10s. The jury says John Bassissone has died seized of one messuage, 16 acres and 1 rood of land of villenage, and that John his son is his next heir, and is of the age of nine years.

And because the said heir has not come, therefore it is ordered that seisin be in the whole villenage until, etc.

Order. To distrain the tenants of the tenement Sowle for one boon-work witheld in autumn.

Fine, 40s. All the jury says that Thomas Ode has died seised of a cottage and 5 acres and one rood of land of the villenage of the lord, and that they know him to have no surviving heir, and therefore the whole tenement was taken into the lord's hand. And the lord out of his seisin delivered and gave the whole of the said tenement to a certain Simon Maning of Walton and his heirs to hold in villenage at the will of the lord, doing therefore the service and customs due. Saving all kinds of rights. And he gives to the lord to have entry.

Order. Ordered to distrain Henry le Cok, John Maggard, chaplain, and John Ingel, because they withhold from the lord 3d. rent now for five years for the parcel tenement Merchant.

Likewise to distrain Richard of the River for fealty for the tenement formerely of Reyner Attechirche.

Election. The whole homage elect the tenement of Geoffrey Attechirchgate for the office of reeve this year, and the tenants are Nally, Buteneleyn, Martin, Bassissone, and others. And the said Alexander was sworn.

Likewise the tenement of Lawrence Smith for the next year.

Likewise the tenement Ernald for the office of reaper: and the tenants are W. Macurneys, Buteneleyn, W. Pawe, and T. Attenewhouse. And the said W. Pawe was sworn and afterward excused. And Prat performs the office for him.

Order. It was ordered to distrain Alan son of William Attehallgate and John his brother, for fealty for the tenement which belonged to master Roger de Snetisham, of the fee of the lord.

Likewise to distrain John Pye to show by what right, etc., and for fealty.

Likewise to retain the pledges taken from the men of Hilburworth until they have made satisfaction for damages done in the common.

Amerciament, 12d. From William Hubbard for damage in the lord's meadows.

Amerciament, 6d. From John Aylemer for damage in the fields in autumn.

Amerciament, 2d. From Hugh Holer because he did not do his boon-work in autumn, as he was summoned to do.

12d. From Isabel Syapping for license to have a fold of her own sheep.

Memorandum. Of 4 bushels of barley taken from Roger the miller, etc., by the Reaper; and let them be handed over to Thomas Pawe for a debt recovered against the said Roger.

Total 6£. 4s. 11d., besides a heriot valued at 10s.

Total of all the courts for the whole year, 8£. 16s. 8d.

CRESSINGHAM. A Court and Leet there on Monday next after the feast of the apostles Peter and Paul, in the third year of the reign of king Edward, the Third from the Conquest, (i. e., July 3rd, 1329).

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Fine, 18d. Gilbert de Secheforde surrendered into the hands of the bailiff, in the presence of the whole homage a cottage to the use of John Putneys and his heirs, to hold in villenage at the will of the lord, doing thence the services and customs due; saving rights of all kinds. And he gives for entry, etc.

Order. It was ordered to retain in the lord's hand one messuage and one acre of land of which John Belessone was seized when he died, because it is not known of what condition he was; and therefore the rolls of the 34th and 32nd of king Edward are being examined.

Amerciament, 3d. From Alice, daughter of Geoffrey Attenewhouse, for marrying without leave.

Amerciament, 4d. From John, son of Martin, for the same.

Postponement. A suit between Thomas Attetunesende, plaintiff, and Adam Attewater, defendant, concerning a plea of agreement, was postponed till the next court by consent of the parties on account of arbitration.

Postponement. A distraint taken from John Maggard and Henry le Coke for arrears of rent was postponed till the next court. And it was ordered to distrain John Ingil, their joint-tenant, etc.

Chief Pledges.

John Buteneleyn,	John Hardy,
William Robin,	Thomas Hardy,
Henry Pawe,	Nicholas, son of Roger,
Laurence Smith,	Roger Attehallgate,
Roger Gurnay,	William le Warde,
William Attestrete,	Robert Gemming.

These were sworn and say:

Fine, 3d. From William Hubbard for license to put his grain growing in the lord's villenage, out of villenage.

Amerciament. From Silvester Smith, for blood drawn from John Marschal. (erased). Because he was elsewhere.

A. 6d. From John Barun for the same from William, son of Sabine.

A. 3d. From Margaret Millote for the same from Agnes, daughter of Martin Skinner.

A. 6d. From the rector for an encroachment on the common at Greneholm, 12 perches long and 2 feet wide.

A. 6d. From the same rector for an encroachment made at Caldewell, 20 perches long and 1 foot wide.

A. 3d. From Roger of Draytone because he made an encroachment at the Strete 3 perches long and 1 foot wide.

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A. 6. From Hugh Rolf and Hugh Holer for license to resign the office of ale-taster.

Election. Alan le Cok and Alan le Spicer were elected to the office of ale-taster, and sworn.

A. 2d. From Christiana Punte because she has sold ale and bread contrary to the assize.

A. 2d. From William, son of Clarissa because he broke into the house of John son of Geoffrey Brichmer.

A. 2d. From Adam son of Matilda Thomas because he is not in the tything.

A. 2d. From John son of Thomas Brun for the same.

A. 6d. From Peter the miller for a hue and cry justly raised against him by the wife of William the Fuller.

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2. EXTRACTS FROM THE HALMOTE COURT ROLLS OF THE PRIOR AND CONVENT OF DURHAM, 1345–83.

Publications of the Surtees Society. Vol. 82. pp 16-179.

The following items are extracted from the records of the successive courts held by the Steward, Bursar, or Terrar of the Priory of Durham. Three courts a year seem to have been held in each of the fifteen manors belonging to the convent, besides more frequent meetings, at the call of the reeve. The word "halmote" or "halimote" is frequently applied to the manor court meetings, and is generally considered to be equivalent to a meeting in the hall or manor house. Maitland, Sel. Pleas in Manorial Courts, I, lxxvi.

First Tourn of the Halmotes of the Priory of Durham, beginning at

Fery, July 6th, A.D. 1345, before lords William of Chareton and Robert of Benton, Terrar and Bursar, and Simon Esshe, Steward.

Spen, 1345. Agnes widow of Adam of Mora has taken a house and 50 acres of land which her husband Adam formerly held, paying annually for her life 33s. 4d. And there is remitted to her 16s. 8d. a year from the old rent on accouut of her age and weakness of mind.

Billingham, 1345. Agnes daughter of William Nouthird has taken a cottage with the curtilage, which the said William her father formerly held, to be held on payment of 6d. a year and 20 autumn works in the manor of Billingham, provided she has food. Fine, 2s.; pledges J. of Stokton and Alexander son of Gilbert.

The reeve and jurors complain and present that certain persons named below do not hold land by reason of which they have any right to have part in the common pasture, and yet they feed their cattle on the pasture of the vill to the injury of those who hold land. It is therefore required that they remove their animals from the pasture so that for the future they shall not thus overstock the pasture ; under penalty of half a mark.

North Pittington, 1358. Bonageus[1] Moneyer came here into court and took a messuage and 28 acres of land which had been Christiana Ponchoun's, because no one of the blood of the said Christiana was willing to fine for them, to have and hold for the term of his life, on payment for the first 3 years of 13s. 4d. a year, and afterward 20s. a year. And the same Bonageus will repair within a year, at his own cost, the building of the foresaid messuage. And he gives for a fine 20s. of which 13s. 4d. is remitted for the repairs of the foresaid buildings. Pledges for the rent and for all other things which are required Robert Thomson and John Ponchoun.

Bonageus Moneyer came here and took a messuage and 20 acres of a nd formerly in the tenure of Richard of Aucland vicar of Pittington, which were seized into the hand of the lord because he left them and rented them without license of the lord; to have and hold for the term lof his life, paying the ancient rent and doing for the lord and his neighbors what is required; on the pledge of John Ponchoun and Robert Thomson. And he gives as fine 13s. 4d.

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[1] In 1364, Bonageus, a Florentine, was moneyer for the king of Scotland. This was probably the same man. He might have been in 1358 minter for the Bishop of Durham. By 1364 he is recorded as having left his holdings at Pittington.

West Raynton, 1364. It is reported by the inquisition upon which Hugh Urkyll has placed himself, viz. on the oath of, etc. (8 names) that the said Hugh is a *nativus*[1] of the lord prior and that his father and grandfather were considered as *nativi* of the said lord prior. And moreover this same Hugh made his fealty here in court just as pertains to a *nativus*. It is reported by the same inquisition that John Wydowson is a *nativus* of the lord and of like condition etc; and besides this, etc. has made his fealty etc. It is ordained and enjoined on all who were on the foresaid inquisition that each of them hold what was said among them as a secret, under penalty of payment of 40d. by the one who is found guilty. It is enjoined on all the tenants of that vill and the vill of East Raynton that no one of them call anyone of those vills "*nativus*" of the lord, under penalty of payment of 20s. by the one who is found guilty.

Billingham, 1364. It is enjoined upon all the tenants of the vill that none of them grind his grain outside of the domain so long as the mill of the lord prior is able to grind, under penalty of 20s.

Coupon, 1365. It is reported by the jury that Thomas son of Richard of Billingham staying at Melsonby and acting as common herdman there, is a *nativus* of the lord.

Newton Bewley, 1365. From John of Baumburg for his transgression against Adam of Marton, in calling him false, perjured, and a rustic; to the loss of the same Adam of Marton 40d., penalty 13d.

Mid-Merrington, 1365. From Richard, son of Thomas, because he has not recalled his son from school[2] before the feast of St. Michael as enjoined upon him at the last Halmote, penalty 40d. It is enjoined upon all the tenants of the vill that none of them insult the pounder while fulfilling his duty, nor swear at him.

West Raynton, 1365. A day is given to all the tenants of the vill to make a law that neither they nor their wives nor their servants shall cut down anything within the woods, nor carry anything green away from the woods; each of them at the next court six-handed.

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[1] That is, a bondman of the lord born on the manor. The word is used not in contrast with *villanus*, but as a more exact term, laying stress on his servile status, at a period when many men in the social position of villeins were no longer personally unfree. It is here evidently a term of opprobrium, as well as an indication of subjection to the burdens of serfdom. The official who holds the court seems to deprecate any rousing of the resentment of the villein tenants by its open use.

[2] Doubtless a villein who was violating the law by endeavoring to have his son trained to be a priest; see at Ackley, below.

Coupon, 1365. From Agnes Postell and Alice of Belasis, for breaking the assize of ale, 12d. From Alice of Belasis, for bad ale, and moreover because the ale which she sent to the Terrar was of no strength, as was proved in court, 2s.

Ackley, 1365. It is ordained by common consent that no one permit colts, calves, young steers or any other animals within the field in which grain is sowed until the grain is cut and carried off, under penalty of half a mark.

Fery, 1365. It is ordained by common consent that Robert Todd should keep his sheep from feeding on the grain of his neighbors and on the cowpasture, under penalty of 40d.; and moreover that each tenant keep his pigs, cows, horses, and other animals from feeding on the grain or treading it, and that the cottagers should keep their cattle within the common pasture, under the penalty foresaid.

Ackley, 1366. It is required of John, son of Thomas of Chilton, living at Coites that he recall his son from the schools before the feast of the Purification of the Virgin next.

West Merrington, 1367. It is enjoined on all the tenants of the vill that each of them cause to be plowed the outer parts of the field and then the inner parts, so that none of them . . . .[1] loss on account of lack of plowing.

Billingham, 1368. It is enjoined upon all the tenants of the vill that none of them cut the balks before the next court.

Coupon, 1368. John Pulter and Robert Fauks were elected ale-tasters, and were sworn.

Newton Bewley, 1368. From Alice, servant of Adam of Marton, for leyr,[2] 6d. From Thomas, servant of the same for drawing his knife to strike John Smith, penalty 40d., by grace 12d.

Wallsend, 1368. It is enjoined upon all the tenants of the vill that each of them come on the summons of the reeve to discuss the common business touching the profit of the vill.

Hesylden, 1368. From Robert, son and heir of John son of Matilda, as a heriot for 1 messuage and 20 acres of land which he holds freely, for homage, and fealty and service of 40d. and a heriot, viz. the best beast; 15s., and nothing for relief.

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[1] Manuscript illegible.

[2] Leyr was a fine imposed upon women who had been guilty of incontinence.

Monkton, 1369. Robert Jakson, *nativus* of the lord made his fealty to the lord at Jarrow, Thursday next after the feast of St. Luke the Evangelist, in the 69th year.

Heworths, 1370. It is enjoined upon all the tenants of the vill that they have the common forge and the common oven repaired.

East Raynton, 1370. From Margaret daughter of Robert Wright for merchet, pledge, Alice, her mother, 2s.

Fery, 1370. From Margaret Ferywoman for leyr, 6d. From Adam Graundorge for his transgression made against Robert Letany by killing his cow to the loss of 7s., 3d. A day is given to the same Adam to make his law against Richard, son of Peter, that he has not broken the leg of his cow. At the next court, with six hands. He has not found a pledge. Therefore let the said Richard recover against him. From Adam Graundorge for 1 cow of Richard, son of Peter, killed, to the loss of 10s., penalty 3d.

Wallsend, 1370. It is ordained by common consent that each tenant should come to the making of the hay of the common meadow when they shall be warned, under penalty of losing their part and even under penalty of heavy fine.

Harton, 1370. An inquisition was taken here Tuesday, the day after St. Simon's and St. Jude's Day, A. D. 1370, before lord John of Heminburg, Terrar, and lord Thomas Surtays, Steward, for inquiring of what condition Adam Diotson and Roger Ward are, on the oath of John Wallas, 80 years old, Thomas Page, Richard of Hertlaw, John Dogeson, John Gray, John, son of Adam of Southwyk, Thomas, son of Alan, and John Reid. Who say on their oath that a certain John Ward, grandfather of the aforesaid Roger Ward, and John Ward, father of the same Roger, were of old held to be *nativi* of the lord Prior, and never did they hear the contrary till this day. And they say that a certain Thomas Maymond, grandfather of the aforesaid Adam, and John, father of the aforesaid Roger, were brothers by the same father and mother, and they say that the aforesaid Adam and Roger are of the same servile condition as their ancestors were and never did they hear the contrary.

East Raynton, 1370. Lease of the manor. John Freman, Robert of Coldingham, Elias Pater-Noster, and Thomas Gibson have taken the demesne lands with their buildings, to have and to hold for the term of 15 years, paying yearly at the treasury 8 marks, and to the Terrar half a mark, commencing payment at the feast of Pentecost, A. D., '71.

And they found 54 acres of one cultivation; and they will manure 10 acres in each year. And they will return the buildings and land in proper condition because they so received them. Pledges, each of the other, and others of the vill who work part of it on lease from John Freman and his said companions. And they will grind the grain from the said demesnes at the mill of the Prior in the same way as it is ground from the lands of the other tenants.

Mid-Merrington, 1371. It is enjoined on all the cottars and laborers that they work with the farmer of the manor for suitable wages

Newton-Bewly, 1371. William Raynald was elected to the office of reeve, and was sworn.

Billingham, 1374. Fealty of a *nativus* taken. Robert, son of Eustace Fristerlying of Hesilden, *nativus* of the lord came here on Thursday, the feast of Pope Clement, A. D. '74, in the presence of lord John of Beryngton, Terrar, Alan of Billingham, John of Elvet, Hugh of Corbrigg, and several other tenants of Billingham, Wolveston, Newton, and Coupon, and swore, touching the sacred gospels, that he will be under the jurisdiction of the lord Prior and Convent of Durham and their officers, in his body and his goods, and that he will not remove himself from their land, etc.

Southwyk, 1374. From Robert Smith because he would not sit down at the command of the Steward. Robert Smith took one holding which was last in the tenure of William, son of Henry, to have and hold for the term of his life, paying yearly for all things, viz. for services and other different things, 30s.

East Merrington, 1367. It is reported by the oath of (fourteen names) in the presence of lord Robert of Wallworth, prior, and many others that Robert, son of Nicolas, who now is called Tomson is free and of free condition and free status, and not a *nativus* of the said lord Prior.

Ackley, 1376. John Tailor has come and taken 12 acres of land with the meadow pertaining to the said 12 acres of land, lately in the tenure of William Ibbi and leased by the said William to the said John with the license of the prior; to have and hold for the term of his life; paying annually 12s. Fine 3s.

Hesilden, 1376. It is ordained by common consent that all things collected within the field, as well as herbage, be carried openly through the middle of the vill and not behind the gardens, in secret. It is enjoined upon all the women of the vill that they restrain their tongues and that they do not quarrel nor swear at anyone.

Dalton, 1376. From Joanna, wife of William Smith, for merchet 12d. From Margaret, servant of the former, for leyr with two men, 12d. From the wife of John Dawson, for breaking the assize of ale 6d.

Wolveston, 1376. William May, *nativus* of the lord has taken 30 acres of land with the crop; viz., 5 acres of wheat, price per acre 10s., 3 acres of peas and beans and 4 acres of oats price per acre 5s. The same William held these before and on account of his incapacity they were seized into the hand of the lord; to have and to hold at the will of the lord, paying the ancient rent.

Billingham, 1378. It is ordained by common consent that at the blowing of the horn of the Reaper, they should come for the gathering of the peas, and when he blows his horn again they all withdraw from the said peas, under penalty of 6d.; and moreover that no one collect except in his own place, unless he is poor.

West Raynton, 1378. A day is give to that vill that they inquire and present whether John Hunting and Cecilia his wife beat Margaret the widow or not, at the next court, under penalty of half a mark. From John Hunting because he did not close his front, so that his animals trampled and destroyed the cabbages of Margaret the widow.

Billingham, 1379. It is ordained by common consent that no one in the time of harvest should have in the day time more that one horse in the grain, for carrying his food, and that at night he should remove the said horse from the grain, under penalty of 4d.; and similarly that no one carry off the grain of another, under the same penalty.

Monkton, 1379. It is enjoined upon Thomas Lame that he cause to be rebuilt before the feast of St. Michael, a barn which was burned in his tenure, under penalty of 40s.

Pittyngton, 1379. It is enjoined upon all the tenants of the vill that they heat up the oven, each one of them when his turn shall come, under penalty of paying 12d.

East Merrington, 1381. It is ordained by common consent that each tenant should keep the animals when his turn comes, and for the day in which he has their custody, he should respond and give satisfaction for injuries made in the grain or herbage to the one or ones who have had the losses, under penalty of paying 4d.

Fery, 1383. It is enjoined upon all the tenants of the vill that they should have boundary marks, under penalty of half a mark, and moreover that they should pay the common shepherd his wages, and that they should not speak ill to the said shepherd, under penalty of 40d.

IV. THE MANOR HOUSE AT CHINGFORD, ESSEX, A. D. 1265.

Hist. Mss. Commission Reports 9. 1. pp. 35-6

The manor of Chingford was granted by the Chapter of St. Paul's Cathedral, London, in 1265, to their Treasurer Robert le Moyne. In the description of the manor and its contents the receipt of which he acknowledged, the following description of the manor buildings is given.

He received also a sufficient and handsome hall well ceiled with oak. On the western side is a worthy bed, on the ground, a stone chimney, a wardrobe and a certain other small chamber; at the eastern end is a pantry and a buttery. Between the hall and the chapel is a side-room. There is a decent chapel covered with tiles, a portable altar, and a small cross. In the hall are four tables on trestles. There are likewise a good kitchen well covered with tiles, with a furnace and ovens, one large, the other small, for cakes, two tables, and alongside the kitchen a small house for baking. Also a new granary covered with oak shingles, and a building in which the dairy is contained, though it is divided. Likewise a chamber suited for clergymen and a necessary chamber. Also a hen-house. These are within the inner gate.

Likewise outside of that gate are an old house for the servants, a good stable, long and divided, and to the east of the principal building, beyond the smaller stable, a solar for the use of the servants. Also a building in which is contained a bed; also two barns, one for wheat and one for oats. These buildings are enclosed with a moat, a wall, and a hedge. Also beyond the middle gate is a good barn, and a stable for cows and another for oxen, these old and ruinous. Also beyond the outer gate is a pigstye.

V. MANUMISSION OF A VILLEIN.

Dugdale's Monasticon, I, 394.

To all the faithful of Christ to whom the present writing shall come, Richard by the divine permission abbot of Peterborough and the Convent of the same place, eternal greeting in the Lord. Let all know that we have manumitted and liberated from all yoke of servitude William, the son of Richard of Wythington whom previously we have held as our born bondman, with his whole progeny and all his chattels, so that neither we nor our successors shall be able to require or exact any right or claim in the said William, his progeny, or his chattels. But

the same William with his whole progeny and all his chattels will remain free and quit and without disturbance, exaction, or any claim on the part of us or our successors by reason of any servitude, forever. We will moreover and concede that he and his heirs shall hold the messuages, land, rents and meadows in Wythington which his ancestors held from us and our predecessors, by giving and performing the fine which is called merchet for giving his daughter in marriage, and tallage from year to year according to our will,—that he shall have and hold these for the future from us and our successors freely, quietly, peacefully, and hereditarily, by paying thence to us and our successors yearly 40s. sterling. at the four terms of the year, namely; at St. John the Baptist's day, 10s., at Michaelmas, 10s., at Christmas, 10s., and at Easter, 10s., for all service, exaction, custom, and secular demand; saving to us nevertheless attendance at our court of Castre every three weeks, wardship and relief, and outside service of our lord the king, when they shall happen. And if it shall happen that the said William or his heirs shall die at any time without an heir, the said messuage, land, rents, and meadows with their appurtenances shall return fully and completely to us and our successors. Nor will it be allowed to the said William or his heirs the said messuage, land, rents, meadows, or any part of them to give, sell, alienate, mortgage, or in any way encumber by which the said messuage, land, rents, and meadows should not return to us and our successors in the form declared above. But if this should occur later their deed shall be declared null and what is thus alienated shall come to us and our successors. In testimony of which duplicate seals are appended to this writing, formed as a chirograph, for the sake of greater security. These being witnesses, etc. Given at Borough for the love of lord Robert of good memory, once abbot, our predecessor and maternal uncle of the said William, and at the instance of the good man brother Hugh of Mutton, relative of the said abbot Robert; A. D. 1278, on the eve of Pentecost.

An admirable bibliography of manorial documents is given in Miss F. G. Davenport's "Classified List of Printed Original Materials for English Manorial and Agrarian History," prepared under the supervision of Prof. W. J. Ashley of Harvard University, and published by that University as Radcliffe College Monographs, No. 6. Numerous references are also given in Ashley's English Economic History, Vol. I, pp. 3-5.

TRANSLATIONS AND REPRINTS

FROM THE

ORIGINAL SOURCES OF EUROPEAN HISTORY.

VOL. III. STATISTICAL DOCUMENTS OF THE MIDDLE AGES. NO. 2.

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INTRODUCTION.

The German publicist von Schlözer writing in 1804 said that "Statistics is history standing still, history statistics in motion." Though to-day the dictum would be rejected by both historian and statistician, it remains true that while history is mainly occupied in describing events, statistics is chiefly concerned in depicting conditions. In this broad sense, therefore, we may be allowed to speak of statistical documents in the middle ages.

It is readily conceded that statistics in the modern sense have not been transmitted to us from the antique or mediaeval civilization. In the modern sense statistic means to us a comprehensive inquiry into definite facts capable of expression in numerical terms, within a well defined geographical area and in a definite period of time. Such inquiries, ranking among the latest products of a highly developed political and social life cannot be looked for in a period of nascent civilization.

The carefully organized statistical work of modern governments is the outgrowth of a long developement of It administrative functios and is intimately bound up with the latter. Whenever we find an orderly administration, we find traces of statistics. For without records such administration could not be carried out, and it is only a question of arrangement, whether such records assume a statistical form. We can therefore find in the middle ages, the records of statistical beginnings. It

is with such beginnings that we are concerned in the present issue. Statistically they are in the crudest form of arrangement. Their historical interest in giving a glimpse however incomplete of the time to which they relate, may serve as a justification for the results, which from the standpoint of statistics must be deemed meagre in the extreme.

The documents bearing upon the history of statistics which the middle ages have bequeathed to us, may be classed in two fairly distinct groups. The one gives us a record of the execution of various administrative measures involving statistic work, and sometimes preserving the instructions or laws upon which such inquiries were based. The second gives us some actual results, oftentimes partial in their scope, yet indicative of the conditions which the measures must have revealed.

Historians of statistics have recorded the references to a considerable number of administrative undertakings which must have had a statistical interest. In this issue we have selected a few illustrations of the two types of documents above named. The following extracts have been taken direct from the original documents. Especial attention is directed to number IV, V, and VI, which present a very striking combination of information from different sources, relative the same epoch. Being separately printed the importance of these extracts as a group might pass unobserved.

I. *ARTICLES FROM THE CAPITULARY "DE VILLIS."*

Mon. Ger. Hist. Legum I, 185-186. Latin.

In the capitularies of Charles the great the high administrative ability of that ruler is clearly manifested. They contain several ordinances relating to the general affairs of the realm, such as the military service, which indicate the existence of a fairly compact administrative system. The capitulary "de Villis" from which a few extracts are given relates to the royal domains. The first section quoted may be regarded as a statistical instruction to the officials. In it several items, mentioned specifically in other sections are not enumerated. They are added to show the general character of the domains. They indicate, that the section 62 is merely a general instruction and is not intended as a schedule. The whole capitulary of which only a part is here given throws an interesting light upon the character of the royal revenues of the period. In this translation we acknowledge our indebtedness to the scholarly edition of the "de Villis" by Guérard, in Bibliothéque de L'Ecole des Chartes. In dubious passages we have followed the interpretation of this author.

62. That each steward shall make an annual statement of all our income: an account of our lands cultivated by the oxen which our ploughmen drive and of our lands which the tenants of farms ought to plough; an account of the pigs, of the rents,[1] of the obligations and fines; of the game taken in our forests without our permission; of the various compositions; of the mills, of the forest, of the fields, of the bridges, and ships: of the free-men and the hundreds who are under obligations to our treasury; of markets, vineyards, and those who owe wine to us; of the hay,

[1] Guérard thinks this means the payment for the right to keep pigs in the woods.

fire-wood, torches, planks, and other kinds of lumber; of the waste-lands; of the vegetables, millet, panic; of the wool, flax, and hemp; of the fruits of the trees, of the nut trees, larger and smaller; of the grafted trees of all kinds; of the gardens; of the turnips; of the fish-ponds; of the hides, skins, and horns; of the honey, wax; of the fat, tallow and soap; of the mulberry wine, cooked wine, mead, vinegar, beer, wine new and old; of the new grain and the old; of the hens and eggs; of the geese; the number of fishermen, smiths [workers in metal], sword-makers, and shoe-makers of the bins and boxes; of the turners and saddlers; of the forges and mines, that is iron and other mines; of the lead mines; of the tributaries; of the colts and fillies; they shall make all these known to us, set forth separately and in order, at Christmas, in order that we may know what and how much of each thing we have.

22. In each of our estates our stewards are to have as many cow-houses, piggeries, sheep-folds, stables for goats, as possible, and they ought never to be without these. And let them have in addition cows furnished by our serfs for performing their service, so that the cow-houses and plows shall be in no way weakened by the service on our demense. And when they have to provide meat, let them have steers lame, but healthy, and cows and horses which are not mangy, or other beasts which are not diseased and, as we have said, our cow-houses and plows are not to be weakened for this.

34. They must provide with the greatest care, that whatever is prepared or made with the hands, that is, lard, smoked meat, salt meat, partially salted meat, wine, vinegar, mulberry wine, cooked wine, *garns*, [1] mustard, cheese, butter, malt, beer, mead, honey, wax, flour, all should be prepared and made with the greatest cleanliness.

40. That each steward on each of our domains shall always have, for the sake of ornament, swans, peacocks, pheasants, ducks, pigeons, partridges, turtle-doves.

42. That in each of our estates, the chambers shall be provided with counterpanes, cushions, pillows, bed-clothes, coverings for the tables and benches; vessels of brass, lead, iron and wood; andirons, chains, pot-hooks, adzes, axes, augers, cutlasses and all other kinds of tools, so that it shall never be necessary to go elsewhere for them, or to borrow them. And the weapons, which are carried against the enemy, shall be

[1] A kind of fermented liquor.

well cared for, so as to keep them in good condition; and when they are brought back they shall be placed in the chamber.

43. For our women's work they are to give at the proper time, as has been ordered, the materials, that is the linen, wool, woad, vermillion, madder, wool-combs, teasels, soap, grease, vessels and the other objects which are necessary.

44. Of the food-products other than meat, two-thirds shall be sent each year for our own use, that is of the vegetables, fish, cheese, butter, honey, mustard, vinegar, millet, panic, dried and green herbs, radishes, and in addition of the wax, soap and other small products; and they tell us how much is left by a statement, as we have said above; and they shall not neglect this as in the past; because from those two-thirds, we wish to know how much remains.

45. That each steward shall have in his district good workmen, namely, blacksmiths, gold-smith, silver-smith, shoe-makers, turners, carpenters, sword-makers, fishermen, foilers, soap-makers, men who know how to make beer, cider, berry, and all the other kinds of beverages, bakers to make pastry for our table, net-makers who know how to make nets for hunting, fishing and fowling, and the other who are too numerous to be designated.

II. *INVENTORY OF AN ESTATE OF CHARLES THE GREAT.*

Mon. Ger. Hist. LL. I, pp. 178-179. Latin.

This inventory is a specimen of those required in the capitulary. It refers to a small estate, the location of which is unknown. Rude domestic and agricultural conditions are clearly reflected in this account of an estate destined to harbor temporarily the royal person and his officers.

We found in the domain estate of Asnapium a royal house built of stone in the best manner, 3 rooms; the whole house surrounded with balconies, with 11 apartments for women; beneath 1 cellar; 2 porticoes; 17 other houses built of wood within the court-yard with as many rooms and other appurtenances, well built; 1 stable, 1 kitchen, 1 mill, 1 granary, 3 barns.

The yard surrounded carefully with a hedge and stone gateway and above a balcony from which to make distributions. An inner yard, likewise enclosed within a hedge, arranged in a suitable manner planted with various kinds of trees.

Vestments: coverings for 1 bed, 1 table cloth, 1 towel.

Utensils: 2 brass kettles, 2 drinking cups, 2 brass cauldrons, 1

iron one, 1 frying-pay, 1 gramalmin, 1 pair of andirons, 1 lamp, 2 hatchets, 1 chisel, 2 augers, 1 axe, 1 knife, 1 large plane, 1 plane, 2 scythes, 2 sickles, 2 spades tipped with iron. Enough wooden utensils for use.

Farm produce: old spelt from last year, 90 baskets which can be made into 450 weight of flour; 100 measures of barley. From the present year, 110 baskets of spelt, planted 60 baskets from the same, the rest we found; 100 measures of wheat, 60 sown, the rest we found; 98 measures of rye all sown; 1800 measures of barley, 1100 sown, the rest we found; 430 measures of oats, 1 measure of beans, 12 measures of peas At the 5 mills, 800 measures, small measures. At the 4 breweries, 650 measures, small measures, 240 given to the prebendaries, the rest we found. At the 2 bridges, 60 measures of salt and 2 shillings. At the 4, gardens, 11 shillings. Honey, 3 measures; about 1 measure of butter; lard, from last year 10 sides, new sides 200 with fragments and fats, cheese from the present year 43 weights.

Of cattle; 51 head of larger cattle, 5 three-year olds, 7 two-year-olds, 7 yearlings; 10 two-year-old colts, 8 yearlings, 3 stallions; 16 cows; 2 asses; 50 cows with calves, 20 young bullocks, 38 yearling calves, 3 bulls, 260 hogs, 100 pigs, 5 boars, 150 sheep with lambs, 200 yearling lambs, 120 rams, 30 goats with kids, 30 yearling kids, 3 male goats, 30 geese, 80 chickens, 22 peacocks.

Also concerning the dependencies which pertain to the above mansion. In the villa of Grisio we found domain buildings, where there are 3 barns and a yard surrounded by a hedge. There is there 1 garden with trees, 10 geese, 8 ducks, 30 chickens.

In another villa. We found domain buildings and a yard surrounded by a hedge and within 3 barns, 1 arpent of vines, 1 garden with trees, 15 geese, 20 chickens.

In a third villa, domain buildings. It has 2 barns, 1 granary, 1 garden, 1 yard well enclosed by a hedge.

We found all the dry and liquid measures just as in the palace. We did not find any goldsmiths, silversmiths, blacksmiths, huntsmen or persons engaged in other services.

The garden herbs which we found were lily, putchuck, mint, parsley, rue, celery, *libesticum*, sage, savory, juniper, leeks, garlic, tansy, wild mint, coriander, scullions, onions, cabbage, kohl-rabi, betony. Trees: pears, apples, medlars, peaches, filberts, walnuts, mulberries, quinces.

IIIa. *INSTRUCTIONS FOR COLLECTION OF THE DOMESDAY RETURNS.*

Inquisitio Eliensis. Domesday Book : Additamenta, p. 495. Latin.

The first approach to a modern assessment roll or cataster is the well known Domesday Book. The existing literature on this remarkable memorial is so extensive, that it has not appeared advisable to quote largely from it. Our first quotation contains the instructions issued to the Commissioners who made the record. The second is a specimen return. There is a wide variety in the returns, though certain factors recur constantly in each statement. The survey is the most extensive document, embracing as it does the entire area of England held by the Conqueror, which we possess in regard to mediaeval times. It is important to note how the feudal power as founded by William is no longer dependent like the Empire of Charles upon the personal estates the crown, but brings the entire land under its influence through the feudals dues, and thus paves the way for the modern state founded upon the obligations of all its citizens.

Here is subscribed the inquisition of lands as the barons of the king have made inquiry into them ; that is to say by the oath of the sheriff of the shire, and of all the barons and their Frenchmen, and the whole hundred, the priests, reeves, and six villains of each manor ; then, what the manor is called, who held it in the time of king Edward, who holds now ; how many hides, how many plows in demesne, how many belonging to the men, how many villains, how many cottars, how many serfs, how many free-men, how many socmen, how much woods, how much meadow, how many pastures, how many mills, how many fish-ponds, how much has been added or taken away, how much it was worth altogether at that time, and how much now, how much each free man or socman had or has. All this threefold, that is to say in the time of king Edward, and when king William gave it, and as it is now ; and whether more can be had than is had.

IIIb. *EXTRACT FROM DOMESDAY SURVEY OF THE COUNTY OF NORFOLK.*

Domesday Book, Vol. 2, pp 153-154. Latin.

The land of Robert Malet.

Fredrebruge Hundred and half. Glorestorp. Godwin, a freeman, held it. Two carucates of land in the time of king Edward. Then and afterwards 8 villains; now 3. Then and afterwards 3 bordars; now 5. At all times 3 serfs, and 30 acres of meadow. At all times 2 carucates in demesne. Then half a carucate of the men, and now. Woods for 8

swine, and 2 mills. Here are located 13 socmen, of 40 acres of land. When it was received there were 2 *r.*,[1] now 1. At all times 8 swine, then 20 sheep, and it is worth 60 shillings.

There is situated there, in addition, one berewick, as the manor of Heuseda. In the time of king Edward, 1 carucate of land; then and afterwards 7 villains, now 5. At all times 12 bordars, and 3 serfs, and 40 acres of meadow; 1 mill. Woods for 16 swine and 1 salt pond and a half. Then 1 *r.*, and now and 14 swine, 30 sheep, and 50 goats. In this berewick are located 3 socmen, of 10 acres of land, and it is worth 30 shillings. The two manors have 2 leagues in lengthand 4 firlongs in breadth. Whosoever is tenant there, returns 12 pence of the twenty shillings of geld.

Scerpham Hundred Culverstestun Edric held it in the time of king Edward. Two carucates of land. At all times there were 4 villains, and 1 bordar, and 4 serfs; 5 acres of meadow and two carucates in the demesne. Then and afterwards 1 carucate, now one-half. At all times 1 mill and one fish pond. Here is located 1 socman of the king, of 40 acres of land; which his predecessors held only as commended and he claims his land from the gift of the king. Then and afterwards there was one carucate, now 2 bovates, and 2 acres of meadow. At all times two *r.*, and 4 geese; then 300 sheep, now 300 less 12; then 16 swine now 3. Then and afterwards it was worth 60 shillings, now 80; and there could be one plow. Walter of Caen holds it from Robert.

Heinstede Hundred. In Sasilingaham Edric, the predecessor of Robert Malet, held 2 sokes and a half, of 66 acres of land, now Walter holds them. Then 9 bordars, now 13. At all times 3 carucates and a half among all, and 3 acres of meadow, and the eighth part of a mill; and under these 1 soke of 6 acres of land. At all times half a carucate. Then it was worth 30 shillings, now it returns 50 shillings.

In Scotessa Ulcetel was tenant, a free man commended to Edric, in the time of king Edward of 30 acres of land. At that time 1 bordar, afterward and now 2. Then half a carucate, none afterward nor now. It was at all times worth 5 shillings and 4 pence; the same.

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[1] The word indicated by the contraction *r* has not been identified.

IV. *LEVY OF TROOPS FOR WARS IN BOHEMIA, 1422.*

Deutsche Reichstagsakten Bd. VIII (1883) pp. 157-165.
Reprinted in Altmann und Bernheim: Ausgewählte Urkunden, Second Ed., pp. 174-177. German.

The levy of troops for the Bohemian wars gives us a picture of the relative size and importance of the various powers of Germany in 1422. The statisticians will note especially the concentration of power in the Rhine lands. The contingents to be furnished by the cities, afford an excellent scale of the relative importance of towns in the epoch concerned.

(The Electors). Archbishops: Mayence 50 with swords, Cologne 40 with swords. Treves 40 with swords. The count Palatine 50 with swords. Saxony 20 mounted men-at-arms. Brandenburg 50 with swords.

The Bishops: The archbishop of Magdeburg 30 swordsmen, 10 archers. Bishop of Hildesheim 5 swordsmen, 5 archers. That of Würzburg 20 swordsmen. That of Bamberg 20 swordsmen. That of Eichstätt 10 swordsmen. That of Strassburg 10 swordsmen. That of Constanz 8 swordsmen. That of Basle 2 swordsmen. That of Coire 2 swordsmen. That of Besançon 6 swordsmen. That of Augsburg 2 swordsmen. That of Metz 6 swordsmen. That of Toul 3 swordsmen. That of Verdun 6 swordsmen. That of Lausanne 6 swordsmen. That of Speyer 8 swordsmen. That of Worms 2 swordsmen. That of Verden 3 swordsmen, 6 men-at-arms. That of Schwerin 8 swordsmen, 8 men-at-arms. That of Halberstadt 6 swordsmen, 6 men-at-arms. That of Bremen 10 swordsmen, 10 men-at-arms. That of Kammin 6 swordsmen, 6 men-at-arms. That of Regensburg 5 swordsmen. That of Munster 10 swordsmen.

Dukes and lay princes. Duke of Lorraine 20 swordsmen. Duke of Bar 20 swordsmen. Duke of Savoy 50 swordsmen. Margrave of Baden 10 swordsmen. Landgrave of Hesse 20 swordsmen, 10 men-at-arms. Duke Otto of the Leina 10 swordsmen, 10 men-at-arms. Erich of Brunswick 5 swordsmen, 5 men-at-arms. Duke Otto of Hirschberg 5 swordsmen, 5 men-at-arms. Bernhard and William of Brunswick with their cities namely, Brunswick and Lüneburg, 10 swordsmen, 10 men-at-arms. John of Mecklenburg 10 swordsmen, 10 men-at-arms. Albrecht of Mecklenburg 10 swordsmen, 10 men-at-arms. Children of Duke Ulrich with the country of Stargardt 10 swordsmen, 10 men-at-arms. Otto and Casimir of Stettin 20 swordsmen, 12 men-at-arms. Vladislaf of Wolgast 15 swordsmen, 12 men-at-arms. Erich of Saxe-

Lauenberg 3 swordsmen, 6 men-at-arms. Louis of Ingoldstadt in Bavaria 16 swordsmen. Ernest and William of Bavaria 10 swordsmen. Henry of Bavaria 20 swordsmen. John of Bavaria 10 swordsmen. Stephen of Bavaria 5 swordsmen. Otto of Bavaria 5 swordsmen. Adolphus of Cleve 20 swordsmen. Duke of Berg 6 spearsmen. The bishop of Utrecht, with Deventer, Kempten, Zwolle, and Utrecht, 40 swordsmen.

Lords and counts in the Netherlands. The duke of Jülich, and the knights of Jülich and Guelders, and the four cities of Romunde, Nymwegen, Arnheim and Zutphen 60 swordsmen. The three cities. of Brabant 100 swordsmen. The cities of Liege 100 swordsmen. Standard bearers, knights, and men of Holland 60 swordsmen. Standard bearers, knights, and men of Hainault, the cities of Hainault, the count of Namurs 20 swordsmen. Lords and knights of Flanders, the cities of Flanders 20 swordsmen.

Counts and lords. Gerhard, count of Mark 3 swordsmen William count of Ravensburg 2 swordsmen. Count of Teckelnburg 2 swordsmen. Count of Riedenburg 1 swordsman. Lord of Lippe 2 swordsmen. Lord of Dippoldswald 1 swordsman. Count of Bentheim 1 swordsman. Count of Schaumburg 1 swordsman. Count of Oldenburg 1 swordsman. Frederick and William of Henneberg 4 swordsmen, Count of Rheineck 2 swordsmen. Count of Kastel 2 swordsmen. Count of Hohenlohe 2 swordsmen. Count of Weinsberg 2 swordsmen. Count of Heideck 1 swordsman. Otto Erich of the Heust 6 swordmen. Count of Württemberg 20 swordsmen. Count of Schauen 15 swordsmen. Margrave of Rotelen 3 swordsmen. Margrave of Toggenburg 5 swordsmen. Conrad of Freiburg 5 swordsmen. Hugo master of the Order of St. John 10 swordsmen. Christopher of Wenden 6 swordsmen, 6 men-at-arms. Albrecht and George of Anhalt 5 swordsmen, 5 men-at-arms. Bernhard of Anhalt 4 swordsmen, 4 men-at-arms. Bernhard of Rheimstein, 3 swordsmen, 3 men-at-arms. Count of Wernigerode 4 swordsmen, 4 archers. Emich of Leinigen 3 swordsmen. Frederick of Leinigen 2 swordsmen. Philipp of Nassau 4 swordsmen. John of Sponheim 5 swordsmen. Frederick of Veldenz 3 swordsmen. John and Frederick, counts of the Rhine 2 swordsmen. Philipp and Emich, lords of Oberstein, 2 swordsmen. Lord of Hohenfels 1 swordsman. Nicholas Vogt of Honolstein 1 swordsmen. John of Katzenellenbogen 8 swordsmen. Adolphus of Nassau 2 swordsmen. William of Wied 3 swordsmen. Philipp and Salentin lord of Ysenburg 3 swordsmen. John of

Wied, Reinhard, lord of Westerburg 2 swordsmen. Dietrick, lord of Runkel 1 swordsman. John and Henry, counts of Nassau lord of Bilstein 2 swordmen. Bernhard and John brothers, count Solms 3 swordsmen. John of Wittgenstein 1 swordsman. Rupert of Virneburg 2 swordsmen. Gottfried Eberhard, lord of Eppstein 4 swordsmen. Reinhard, lord of Hanau 3 swordsmen. Dieter, lord of Büdegen 3 swordsmen. Michael of Wertheim 1 swordsman. William of Eberstein 1 swordsman. Lords of Arbergen 3 swordsmen. William of Blankenstein 1 swordsman. John, lord of Schleiden 1 swordsman. Frederick of Moers 4 swordsmen. John, lord of Heimsberg 4 swordsmen. Walrave of Moers 1 swordsman. William Craft, lord of Saffenburg 1 swordsman. John, lord of Rodemachern 2 swordsmen. John and Gottfried, lord of Ziegenhain 2 swordsmen. Henry of Waldeck, and the others of Waldeck 4 swordsmen. John Henry of Vinstigen 2 swordsmen. The lord of Wibelkoben 1 swordsman. Schenk Eberhard, Schenk Conrad and Schenk Conrad the younger, of Ehrenpach 3 swordsmen. Conrad, lord of Bickenbach 1 swordsman. The lord of Neuenahr 1 swordsman. Eberhard of Lineburg, lord of Hartenburg 2 swordsmen. Count of Limburg 1 swordsman. The lord of Harn 2 swordsmen. John of Saarwerden 1 swordsman. The Brothers of Bitsch 1 swordsman. Count of Salm 1 swordsman.

The Abbots. The abbot of Fulda 6 swordsmen. The abbot of Weissenburg 2 swordsmen. The abbot of Zelle 1 swordsmen. The abbot of Mürbach 3 swordsmen. The abbot of Maulbronn 5 swordsmen. The abbot of Einsiedeln 2 swordsmen. The abbot of Biebenhausen 3 swordsmen. The abbot of Salem 5 swordsmen. The abbot Alb 2 swordsmen. The abbot of Kemptem 2 swordsmen. The abbot of Schaffhausen 2 swordsmen. The abbot of Petershausen 2 swordsmen. The abbot of Kinzing 2 swordsmen. The abbot of Weingarten 4 swordsmen. The abbot of Elchingen 2 swordsmen. The abbot of St. Blasien 2 swordsmen. The abbot of Balbeuren 2 swordsmen. The abbot of Zwiefalten 2 swordsmen. The abbot of Isni 1 swordsman. The abbot of Saint George 1 swordsman. The abbot of Saint John 1 swordsman. The abbot of Pfaeffers 1 swordsman. The abbot of Königsbrünn 1 swordsman. Prior of Schusseuried 2 swordsmen.

The cities. The confederates of Berne, Lucerne, Zurich, Freiburg in Vaud 250 horse. Constance, Lindau, Buchhorn, Ravensburg, Ueberlingen, Zelle am Unter See, Diessenhofen, 50 swordsmen and 200 mounted men. Schaffhausen, Waldshut, Lauffenberg, Säckingen,

Rheinfelden, Winterthür, Rapperswil, Frauenfeld 26 men-at-arms. Kempten, Isny, Wangen, Leutkirch, Memmingen, Augsburg, Biberach, Pfullendorf, Kaufbeuren, Ulm, Giengen, Nordlingen, Bopfingen, Aalen, Gmünd, Dünkelsbühl, Esslingen, Reutlingen Rottweil, Weil, Buchau, 100 swordsmen and 100 men-at-arms. Halle 12 swordsmen and 12 men-at-arms. Heilbronn, Wimpfen Weinsberg 24 mounted men armed. Basle 16 swordsmen. Strassburg Muhlhausen, Colmar, Münster in St. Gregorienthal, Kaisersberg, Dürkheim, Schlettstadt, Oberehnheim, Roshein, Hagenau, Weissenburg, 30 swordsmen. Freiburg, Neuenberg Breisach, Kenzingen Endingen 10 swordsmen. Verden 10 swordsmen. Kaufmansarburg 3 swordsmen. Treves 4 swordsmen. Metz 20 swordsmen. Toul 10 swordsmen. Speyer Worms and Mayence 24 swordsmen. Cologne, Aix la Chapelle 30 swordsmen. Dortmund 6 swordsmen. Frankfort 15 swordsmen. Friedberg 2 swordsmen. Gelnhausen 3 swordsmen. Wetzlar 2 swordsmen. Nuremberg 30 swordsmen, 30 men-at-arms. Rothenburg 12 swordsmen, 12 men-at-arms. Windsheim 6 swordsmen, 6 men-at-arms. Weissenburg in Franconia 5 swordsmen, 5 men-at-arms. Schweinfurt 5 swordsmen, 5 men-at-arms. Regensburg 15 swordsmen, 15 men-at-arms. Lübeck 30 swordsmen, 30 men-at-arms. Hamburg 15 swordsmen, 15 men-at-arms. Mühlhausen [Saxony] 3 swordsmen, 6 men-at-arms. Nordhausen 15 swordsmen, 10 men-at-arms. Aschesleben 10 swordsmen, 6 men-at-arms. Halberstadt 10 swordsmen, 10 men-at-arms. Quedlinburg 10 swordsmen, 10 men-at-arms. Sum total, 754 swordsmen and 777 mounted horse from the cities.

V. *RESOURCES OF VENICE.*

From the speech of Thomas Mocenigo in 1421.

Muratori, Rer. Ital. Script. XXII, 952–954. Italian.

The speech of Mocenigo was made on the occasion of a visit to Venice of a Florentine embassy for the purpose of securing the alliance of Venice in the struggle with the duke of Milan. The war party in Venice, was led Francesco Foscari, to whom this speech is especially addressed. The advantage of peace which Venice had so long enjoyed and to which she owed so much of her prosperity are detailed at length by the Doge Mocenigo. In the passage here quoted especial reference is made to the commerce of Venice. While the figures are all in round numbers and not always consistent (the text of the original is carefully followed) yet they must be regarded as valuable approximation by one well fitted to form an estimate. It is rather the character than the amount of the commerce which will fasten the attention of the reader. Venice was at the time the great emporium of the Orient. It on its part distributed the textiles enumerated as coming from the interior to the various centres of trade in the East.

Signor Francesco Foscari, youthful Procurator, if you are able to reply to these questions, reassure the Council by taking up this one which I propose to you. If you found in Venice a garden in such a condition that it produced enough grain every year to furnish sustenance to 500 persons, and that besides there were many bushels to be sold; that the garden produced so much wine, that it furnished sustenance to 500 persons, and that there were besides many measures to be sold; and that it produced every sort of oats and vegetables of considerable value, and that the garden produced moreover every sort of fruit so that 500 persons might live from it every year, and that there should be some for sale; that the garden produced every year beeves, sheep, kids, and birds of all sorts which might furnish sustenance for 500 persons, yet so that some should remain for sale; and that the said garden produced so much cheese and eggs that it might furnish sustenance to 500 persons, yet so that some should remain for sale; and that the garden produced so much fish of all sorts for the sustenance of 500 persons, and that besides this fish could be sold for a considerable number of ducats: it would be agreed that such a garden was most noble, producing so many things, not only furnishing goods for the support of 500 persons, but also goods for sale for 500 ducats, the said garden requiring no cost for its maintenance. And one morning some one should say to you: "*Signor Francesco your enemies have gone to the Piazza to take 500 sailors and have paid them to enter your garden: they bear 500 scythes to destroy the trees and the vines, also 100 villains with 100 pairs of oxen and 100 ploughs, paid by your enemies, to destroy all the plants which are in the said garden, to destroy all the animals great and small which are in the said garden,*" if you were wise, you would not suffer that your garden should be destroyed. You would go to your strong box and take enough gold to hire 1000 men to resist those who wish to destroy the said garden. If you should pay, Signor Francesco, these 500 men with scythes and 100 villains with ploughs for destroying the said garden it would be said that you had gone crazy. Let us examine if we are in such a position. We have planned to comprehend all the commerce which Venice at present conducts, which we have known. We will say of the Milanese merchants and of the exchange banks which confirm this, that there comes every week from Milan 17,000 to 18,000 ducats which enter into this city, making every year the sum of 900,000. From Monza 1000 ducats every week, amounting annually to 56,000 ducats. From Como 2000 ducats every week, amounting annually to 104,000 ducats. From Alessandria della

Paglia 1000 ducats every week, amounting annually to 56,000 ducats. From Tortona and Novara 2000 ducats every week, amounting annually to 104,000 ducats. From Pavia 2000 ducats every week, amounting annually to 104,000 ducats. From Cremona 2000 ducats every week, amounting annually to 104,000 ducats. From Bergamo 1500 ducats every week, amounting annually to 78,000 ducats. From Parma 2,000 ducats every week, amounting to 104,000 ducats. From Piacenza 1,000 ducats every week, amounting to 52,000 ducats.

All these things the banks affirm to be thus on the average, that there is introduced from the countries of the duke of Milan, annually 1,612,000 ducats of gold. Does it not appear that this is a beautiful and most noble garden which Venice posesses without cost? Alessandria della Paglia, Tortona and Novara, place there 6000 pieces of cloth per year at 15 ducats the piece, amounting to 90,000 ducats. Pavia places 3000 pieces of cloth at 15 ducats the piece, which is 45,000 ducats. Milan places 4000 pieces of fine cloth at 30 ducats the piece, which is 120,000 ducats. Como 12,000 pieces at 15 ducats the piece, which amounts to 180,000 ducats. Monza 6000 pieces at 15 ducats the piece, which amounts to 90,000 ducats. Brescia 5000 pieces at 15 ducats the piece, which amounts to 75,000 ducats. Bergamo 10,000 pieces at 7 ducats the piece, which amounts to 70,000 ducats. Cremona places 40, 000 fustians, at 40 and a quarter the piece, which amounts to 170,000. Parma 4000 pieces at 15 ducats the piece, which is 60,000 ducats. This amounts in all to 90,000 pieces which makes 900,000 ducats. And we have revenues from the lands of Lombardy at one ducat per piece, 200,000 ducats, which with this and with the goods amounts to 28,800, 000 ducats. Does it not appear that this is the most beautiful garden of Venice? Of these things which the Lombards carry away from you every year the first is cotton 5000 M.[1] for 250,000 ducats, thread 20, 000 M. at from 15 to 20 ducats the hundred making 30,000 ducats. Catalonian wool at 60 ducats per M. for 4000 M., 120,000 ducats. French wool at 300 ducats per M. for 40 M., making 120,000 ducats. Cloth of gold and of silk per year for 250,000 ducats. 3000 cargoes of pepper at 100 ducats make 300,000 ducats. Cinnamon 400 loads at 160 ducats per load, 64,000 ducats. Ginger 200 M. at 40 ducats per M., 80,000 ducats. Sugar of one boiling, of two and of three, estimated at 15 ducats the hundred, 95,000 ducats. Green ginger for several thou-

[1] The original has *migliaja* "thousands" for which we use the abbreviation.

sands of ducats. Other things of all sorts for several thousands of ducats, for embroidery and sewing 30,000 ducats. Dyes 4000 M. at 30 ducats per M. per hundred, 120,000 ducats. *Endachi* and grains for 50,000 ducats. Now in the way of making an estimate for all it will be seen to be 28,000,000 ducats. And this is a beautiful garden for Venice without cost. Soap for 250,000 ducats, slaves for 30,000, and considerable salted goods which are sold every year. And all this draft which the said Lombadry makes upon these lands is a reason to navigate so many ships in Syria, so many galleys in Romania, so many in Catalonia, so many in Flanders, in Cyprus, in Sicily, and in other parts of the world, by means of which Venice receives dues and freights, three, two, and a half per cent. *Sanseri*, and *Tintori*; freights of vessels and galleys weighers, porters, bargemen, sailors, rowers and captains, with the profits of merchants in the ventures, which gives a sum of 600,000 ducats to us of Venice without cost. From such profits many thousand persons live on the fat of the land. And is this a garden which we ought to undo? In truth no. But it is to be defended against any who wish to desolate it.

VI. *MEMORANDUM OF THE POWER AND REVENUES OF THE STATES OF EUROPE IN 142–*

Note to Life of Mocenigo.

Muratori. Script. rer. Ital. XXII, pp. 960 et seq. Italian.

The memorandum here quoted is by an unknown hand. It was affixed to the document from which Muratori derives his information before 1450. It may be regarded in the light of a contemporary estimate of the relative strength of European nations. The excellent system of reports by which the Venetian ambassadors kept the home government informed as to the doings of foreign powers is a guaranty that the statement represents the best available information. The section relating to Venice naturally assumes a higher degree ot probability. While in some respects it is vague and indefinite it yet gives us an excellent idea of the budget of receipts of that commonwealth.

Income of all the Christian powers and what they are able to do. The king of France with all his force and the feudal services of princes, dukes, marquises, counts, barons, knights, bishops, abbots, canons, priests, and citizens, can in his own country raise 30,000 horsemen skilled in arms. If desiring to send them out of the country the said realm could not, since the costs would be doubled, send more than 15,000 horse. Before the war with their own countrymen, it could have raised 100,000, for that war destroyed both Church and revenues. In the total there-

fore 15,000 horse. The king of England with the power of his revenues, and the feudal services of princes and others as above could, paying them every month, raise at home 30,000 horsemen skilled in arms. In making the test of war these powers are equal. They have always been powerful in their undertakings. And if one of these forces had been greater than the other, one would have been destroyed. The English were overcome, after the division occurred in England, and they could not make provision for their forces. This was before 1414. They had 40,000 horse. Wars have weakened these countries, their men and their revenues, so that now wishing to send a force out of the country it is agreed that they have the half, i. e., 15,000 horsemen. The king of Scotland who is lord of a great country, and of a people of so great poverty that he would not be able to maintain with his revenues and the taxes and dues of the clergy and laity, 10,000 horsemen skilled in arms in his own country; outside of the country on account of the great cost, 5000 horse. The king of Norway who is lord of a great country, and a people equally poor could not maintain at home with his revenues and the taxes and dues of clergy and laity 10,000 horemen skilled in arms, abroad 5000 horse. The king of Spain with all his revenues and feudal dues of clergy and laity, with all his forces 30,000 horsemen skilled in arms. In 1414 he paid for 20,000. Wishing to maintain them out of the country at double cost they would be 15,000 horsemen. The king of Portugal with all his revenues from clergy and laity, with all his force, would have, if he paid every month, at home 6000 horsemen skilled in arms, abroad 3000 horse. The king of Brittany with all his revenues and feudal dues of clergy and laity, paying every month, could maintain at home 8000 horsemen skilled in arms, abroad 4000. The master of St. James with all his force of men skilled in arms, at home 4000 horsemen, abroad 2000. The duke of Burgundy with all his force as above at home 3000 cavalry. In 1414 he held 1000. But war has destroyed the country. Abroad 5000 men. The king Renë [of Provence] with all his revenues would be able to raise at home 6000 horse, abroad 3000. The duke of Savoy with all his revenues would be able to raise at home 8000 horse, abroad 4000. The marquis of Montferrat would be able to hold 2000 horse at home, 1000 abroad. The count Francesco Sforza, duke of Milan, with all his force could hold as mercenaries 10,000 horse at home and 5000 abroad. The signory of Venice can, with all its force pay for 10,000 horsemen skilled in arms at home, and 5000 abroad. The marquis of Ferrara at

home 2000 horsemen, abroad 1000. The marquis of Mantua, at home 2000, abroad 1000. The signory of Bologna 2000 at home, 1000 abroad. The community of Siena at home 2000, abroad 1000. The Signory of Florence with all its revenues of 1414 could place 1000. At present through the wars it can place 4000 horsemen at home and 2000 abroad.

The Pope with all his revenues of his States of the Church, and with the profits of churches which he receives, was able in 1414 to raise 8000 horsemen; at present at home 6000 horsemen, abroad 3000. The king of Aragon in the Realm of Naples can raise with all his revenues 12,000 horsemen at home and 6000 abroad. The princes of the Realm are able with all their revenues to raise 4000 horsemen at home, 2000 abroad. The Community of Genoa were able in 1414 to maintain 5000 horsemen. But through their present dissension and the wars they are only able to maintain at present 2000. The Barcelonians with all the community and the lord of Catalonia, counting citizens and knights, can at home paying every month maintain 12,000 horsemen, and abroad 6000. All Germany with the lords temporal and spiritual, the free and the other cities, north and south Germany, and the Emperor who is German, can raise with all their resources and revenues 60,000 horsemen at home and 30,000 abroad. The king of Hungary, with all the dukes, lords, princes, barons, prelates, clergy and laity, and with all his resources and revenues can raise at home 80,000 horsemen, abroad 40,000. The grand master of Prussia with all his revenues, 30,000 horsemen. In 1414 he had 50,000. But war has weakened him. Abroad 15,000 horsemen. The king of Poland with all his revenues with dukes marquises barons, cities and boroughs can raise at home 50,000 horsemen, abroad 25,000. The Wallachians with all their revenues and feudal service, at home 20,000 horsemen, abroad 10,000. Morea with its resources of 1414 could raise 50,000 horsemen. War has weakened them. At present at home 20,000, abroad 10,000. All Albania, Croatia, Slavonia, Servia, Russia and Bosnia with all their revenues at home 30,000, abroad 15,000. The king of Cyprus with all his revenues can raise in the Island 2000, abroad 1000. The duke of Nicae in the Archipelago with all his power can pay for 2000 horsemen at home, 1000 abroad. The grand master of Rhodes with all his revenues and feudal dues of his liegemen, clergy and laity of the island, would be able to raise 4000 horsemen at home, 2000 abroad. The lord of Mitylene 2000 horsemen, abroad 1000.

The emperor of Trebizonde with all his power could raise at home 25, 000 horsemen, abroad 15,000. The king of Georgia with his revenues of 1414 raised 30,000 horsemen. At present he can raise at home 10,000 horsemen, abroad 5000. The emperor of Constantinople can only raise * * * . Power of the Infidel Monarchs. The Turk can in all his dominions raise 40,000 horsemen, valiant men to defend him against the Christians. The Caraman with all his power can raise at home 60, 000 horsemen, abroad 30,000. Ussun Cassan with all his power can raise at home 20,000 horsemen in the service of Mahomet, abroad 10, 000. The Caraifan with all his resources at home 20,000, abroad 10, 000. Tamerlane with all his Tartar power can raise at home 1,000, 000 horsemen abroad 500,000. The king of Tunis, of Granada and the other cities of Barbary who have galleys and boats to the injury of Christians, at home are 100,000 horsemen abroad, 50,000.

Revenues of some Christian princes in the year 1423. The king of France in the year 1414 had 2,000,000 ducats ordinary revenues. But the wars which have continued for forty years have reduced the ordinary revenues to 1,000,000 ducats. The king of England had 2, 000,000 ducats ordinary revenue. The continued wars have desolated the island. At the present time he has 700,000 ducats revenue. The king of Spain had in 1410, 3,000,000 ducats ordinary revenue, but the continued wars have reduced it to 800,000 ducats. The king of Portugal had in 1410, 200,000 ducats revenue. By the wars it is reduced to 140,000 ducats. The king of Brittany in 1414 had 200,000 ducats revenue. By the wars it is reduced to 140,000 ducats. The duke of Burgundy had in 1400, 3,000,000 ducats. By the wars it is reduced to 900,000 ducats. The duke of Savoy as a free country has 150,000 ducats revenue. The marquis of Montferrat as a free country has 100, 000 ducats revenue. Count Francesco, duke of Milan (in 1423 duke Filippo Maria had 1,000,000 ducats revenue) has at present on account of the wars only 500,000 ducats. The signory of Venice had in 1423 1,100,000 ducats ordinary revenue. By reason of great wars which have destroyed commerce it has 800,000 ducats ordinary revenue. The marquis of Ferrara had in 1423, 70,000 ducats ordinary revenue. Through the Italian wars he has by remaining at peace 150,000 ducats. The Marquis of Montferrat had in 1423, 150,000 ducats, to-day 60,000 ducats. The Bolognese had in 1423, 400,000 ducats ordinary revenue. But by the wars it has come to 200,000 ducats. Florence in 1423 had a revenue of 400,000 ducats. But since then, through the great

wars it is reduced to 200,000 ducats. The pope, though formerly he had none, has 400,000 ducats ordinary revenue. The Genuese through the great divison among them are reduced to 130,000 ducats. The king of Aragon, in all his realm with Sicily, though at first he had considerably more, has a revenue of 310,000 ducats,

Revenues of our signory on the main-land and the cost of these domains. The country of Friuli gives annually 75,000 ducats. Its costs are annually 6330 ducats. There remains net 1170 ducats. Trevigi and suburbs 40,000 ducats, costs 10,100 ducats, remainder 29,900 ducats. Padua and suburbs 65,500 ducats, costs 14,000 ducats, remiander 51,500 ducats. Vicenza and suburbs 34,500 ducats, costs 7600 ducats, remainder 26,900. Verona and suburbs 52,500 ducats, costs 18,000 ducats, remainder 34,000 ducats. Brescia and suburbs 75,500 ducats, costs 16,000 ducats, remainder 59,500 ducats. Bergamo and suburbs, 25,500 ducats, costs 9,500 ducats, remainder 16,000 ducats. Crema and suburbs 7400 ducats, costs 3900 ducats, remainder 3500 ducats. Ravenna and suburbs 9000 ducats, costs 2770 ducats, remainder 6230 ducats. Sum of the above 317,400 ducats, costs 88,200 ducats, remainder 229,200 ducats. Revenues of Venice. The intendants of the revenues levy every year 150,000 ducats. The Salt office levies every year 165,000 ducats. Eight offices connected with the Bureau of Taxes levy per year 233,500 ducats. Offices connected with the Arsenal levy annually 73,280 ducats. From the profits of the Bureau of Taxes per year 150,000 ducats and salaries 26,500 ducats, leaving 611,600 ducats. Maritime possessions yield annually 180,000 ducats. Other extroardinary revenues. Revenue of the tithe of houses and possessions in the Duchy 25,000 ducats. For the clergy who pay in cash half the tithe, the other being held by the Bureau of Taxes, 15,000 ducats. Possessions abroad and foreign stations 5000 ducats. Priests, for their revenues 22,000 ducats. Seafaring Jews two-tenths per year 600 ducats. Land Jews 500 ducats for the tithe, and 1000 ducats for the two-tenths. The tithe of the merchants 16,000 ducats. Revenue of Noli and Gioje 6000 ducats. Poll taxes and exchange 20,000 ducats. Note that we must subtract from these the following namely: for the persons who are unable to pay the tithe of the houses, it cannot be exacted 6000 ducats; for the half of the tithe of the profit of the Bureau of Taxes, 7500 ducats; for the priests, to be deducted for the Patriarchate 2000 ducats; for the merchandise for the revenues 6000 ducats; for Noli and Gioje 4000 ducats: for poll-taxes and exchange 12,000 ducats.

VII. *TAXES OF THE KINGDOM OF JERUSALEM.*

Assises de Jerusalem. Tome II. Assises de la cour des Bourgeois, p. 173. Paris 1843. Old French.

The list of taxes of the kingdom of Jerusalem may be regarded as a pendant to the foregoing. The list of articles taxed forms an excellent index of the character of the commerce conducted by the Mediterranean powers of the time.

1. The old duties command that one should take at the custom house for the sale of silk for every hundred Besants, 8 Besants and 19 Karoubles, [1] as duty.

2. For the duties on cotton the rule commands that one should take per hundred, 10 B. and 18 K. as duties.

3. For the duties of pepper the rule commands that one should take per hundred 11 B. and 5 K. as duties.

4. For cinnamon the rule commands that one should take per hundred 10 B. and 18 K. as duty.

5. For wool the rule commands that one should take per hundred B., 11 B. and 10 K. as taxes.

6. For the duties of alum the rule commands that one should take per hundred, 11 B. and 5 K. as duties.

7. For the duty on varnish the rule commands that one should take per hundred, 10 B. and 18 K. as duty.

8. For the duties on nutmegs or on nutmeg leaves, the rule commands that one should take as duty per hundred B. 8 B. and ⅓ by law.

9. Of flax the rule commands that one should take per uundred, 8 B. and 8 K. as duty.

10. For the duties upon cloves and the leaves of cloves the rule commands that one should take per hundred, 9 B. and ⅓ by law.

11. For the duties on Indian hens one should take the tenth.

12. For the wares which are brought by sea from the coast of Syria and which cannot be sold the rule is that they can be withdrawn and taken out of the country, but if the merchandise which cannot be sold be taken out beyond the chain they must be paid per hundred for as much as may then be in the country 8 B. per hundred, and for that which may have been sold duty must be paid to the custom house according that which is established for each kind and which one would have to pay. And be it understood that these duties shall be paid by the Saracens and by all the Syrians who may come with wares into this kingdom.

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[1] Where these coins are subsequently mentioned they are indicated by B. and K.

13. For the duties on musc the rule commands that one should take per hundred B, 8 B. and ⅓ as duty.

14. For the duty upon aloe wood the rule commands that one should take 9 B. and ¼ per hundred as duty.

15. For the duties on sugar for that which is imported and exported by land and by sea, the rule commands that one should take per hundred, 5 B. as duty.

16. For the duties per camel's load of sugar the rule commands that one should take 4 B. as duty.

17. For the duty on sugar which is brought by beasts of burden the rule commands that one should take 1 raboin per load as duty.

18. For all things which are exported by land to be taken to the Paynims the rule commands that one should take as duty per Besant 1 K.

19. For the duty for the salt fish which is imported from Babylon one should take the quarter, that is of 4 B. one of the four, as duty.

20. For the duty on flax which is imported from Babylon to Damascus the rule commands that one should take in transit for each camel 1 B. and 2 K. as duty.

21. For the duty on alcana the rule commands that one should take give for each sack a duty of 18½ K.

22. For the duty on all the spices of retail shop-keepers the rule commands that one should take as duty per besante 1 K.

23. For the duty of sesamum the rule commands that one should on importation per hundred, 10 B. as duty.

24. For the duty on oil of Sesamum the rnle commands that one should take per hundred, 11 B. as duty.

25. For the duty upon incense the rule commands that one should take per hundred, 11 B. and 5 K. as duty.

26. The rule for cardemoine the law commands that one should take per hundred, 11 B. and 5 K. as duty.

27. The duty on ivory the law commands that one should take per besante 2 K. as duty.

28. For the duty on Sarcocoll the rule commands that one should take per hundred, 11 B. and 5 K.

29. For the duty on Galega the rule commands that one should take per hundred 4 B. and 4 K.

30. For the duty upon the twigs and the leaves of lavender the rule commands that one should take per hundred, 4 B. and 4 K.

31. For the duty on Myrodolan the rule commands that one should take per hundred 4 B. and 4 K.

32. For the duty on cinnamon the rule commands that one should take per hundred, 4 B. and 4 K.

33. For the duty on rhubarb the rule commande that one should take per hundred, 4 B. and 3 K. as duty.

34. For the duty on ginger the rule commands that one should take per hundred, 4 B. and 4 K. as duty.

35. For the duty upon camphor the rule commands that one should take per hundred, 11 B. and 8 K. as duty.

36. It is understood that the rule commands that one should take on borage per hundred, 11 B. and 5 K. as duty.

37. It is understood that the rule commands that one should take on aspic per hundred, 4 B. and 4 K. as duty.

38. It is understood that the rule commands that one should take on gariophylus per hundred, 4 B. and 4 K. as duty.

39. It is understood that the rule commands that one should take on ammonia, internal tax that is to say per hundred, 11 B. and 5 K.

40. It is understood that the rule commands that one should take on Nabeth sugar, an internal tax.

41. It is understood that the rule commands that one should take on dates, an internal tax.

42. It is understood that the rule commands that one should take on emery per hundred, 10 B. as duty.

43. It is understood that the rule commands that one should take on licorice Saracen and Syrian 1 and ½ tenths, but of French one should take only 13 B. per hundred as duty.

44. It is understood that the rule commands that one should take on sulphur of arsenic per hundred, 11 B. and 5 K. as duty.

45. It is understood that the rule commands that one should take on camphor root which is underneath per hundred, 11 B. and 5 K. as duty.

46. It is understood that the rule commands that one should take on straps and saddles which are exported from the city per B, 1 K. as duty.

47. It is understood that the rule commands that one should take on yellow sulphur of arsenic, and internal tax.

48. It is understood that the rule commands that one should take on libanotis per hundred 10 B. and 8 K. as duty.

49. It is understood that the rule commands that one should take on all planks and beams which are exported by land, as duty the quarter of what they cost.

50. It is understood that the rule commands that one should take as duty on planks used to construct threshing floors the tenth of what they cost.

51. It is understood that the rule commands that one should take upon salt fish exported from the city the quarter of what it cost as duty.

52. It is understood that the rule commands that one should take on fruit per hundred, 14 B. as duty.

53. It is understood that the rule commands that one should take on hens exported from the city and upon ? one should take an internal tax.

54. It is understood that the rule commands that one should take as duty on rafters per besant, 2 K.

55. It is understood that the rule commands that one should take on olives, 20 B.

56. It is understood that the rule commands that one should take on wine which is brought from Nazareth and from Saphourie and from Safran, per camel load as duty 12 drachmans.

57. It is understood that the rule commands that one should take of thread of Damascus an internal tax.

58. It is understood that the rule commands that one should take of senna per hundred, 20 B. as duty.

59. It is understood that the rule commands that one should take of red currants per hundred, 8 B. and $\frac{1}{3}$ which is the amount of the duty.

60. It is understood that the rule commands that one should take of wine which is imported from Antioch or from Lische or this side per besant, 1 K. as duty.

61. It is understood that the rule commands that one should take of the shoes which the Saracens purchase as tax of sale the tenth.

62. It is understood that the rule commands that one should take as duties on wheat, the tenth.

63. It is understood that the rule commands that one should take on eggs the tenth as duty.

64. It is understood that the rule commands that one should take on hens and pullets as duty the tenth, that is to say per hundred, 10 B.

65. On the goats which are imported from the Paynims the rule commands that one should take the tenth as duty.

66. On geese which are brought into the city the rule commands that one should take the tenth as duty.

67. On the oil which comes to the custom-house the rule commands that one should take per hundred, 8 B. and 4 K. as duty.

68. On nut gall the rule commauds that one should give and take as duty 5 B. and 18 K. per hundred.

69. On the wool which is imported from various parts the rule commands that one should take by law per hundred 10 B. and 18 K.

70. On wax the rule commands that one should take per hundred 2 B. and 5 K.

71. On pens the rule commands that one should take as internal tax that is to say 11 B. and 5 K. per hundred.

TRANSLATIONS AND REPRINTS

FROM THE

ORIGINAL SOURCES OF EUROPEAN HISTORY.

VOL. I. ENGLISH CONSTITUTIONAL DOCUMENTS. NO. 6.

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I. CORONATION OATHS AND ROYAL CHARTERS.

At no time in English history has the power of the king been absolute and unlimited. The coronation oath bridged the chasm between the Saxon and the Norman kings, being taken by William and his immediate successors in exactly the form recorded as having been used by King Ethelred. The later charters of liberties indicate the progressive restrictions on the independence of the early Norman and Angevin kings, although the occasions for the issue of such charters were apparently almost accidental. The charter of Henry I. was granted to strengthen his doubtful claim to the throne; two successive charters were issued by Stephen with the same object, and that of Henry II. was granted in imitation of these. Magna Charta is known to have been suggested by and based on these preceding grants. The Confirmation of the Charters was in form one of the many regrants of Magna Charta and the Forest Charter, but it obtained its importance from the sixth clause, which was practically new and remained effective. Under another form, in which it appears as the statute *de tallagio non concedendo*, this grant is frequently referred to in later struggles between king and Parliament.

1. CORONATION OATH OF ETHELRED II., A. D. 978.

Kemble, Saxons in England. II. 36. Anglo-Saxon.

In the name of the Holy Trinity, three things do I promise to this Christian people, my subjects; first, that I will hold God's church and all the Christian people of my realm in true peace; second, that I will forbid all rapine and injustice to men of all conditions; third, that I promise and enjoin justice and mercy in all judgments, in order that a just and merciful God may give us all His eternal favor, who liveth and reigneth.

2. CORONATION OATH OF WILLIAM THE CONQUEROR, A. D. 1066.

Florence of Worcester, under the year 1066. Latin.

Having first, as the archbishop required, sworn before the altar of St. Peter the Apostle, in the presence of the clergy and people, to defend the holy churches of God and their governors, and also to rule over the whole people subject to him justly and with royal providence; to enact and to preserve right law, and straitly to forbid violence and unjust judgments.

3. CHARTER OF WILLIAM THE CONQUEROR TO THE CITY OF LONDON, A. D. 1066.

Liber Custumarum, Pt. 1, pp. 25 and 26. Anglo-Saxon.

William, king, greets William, bishop, and Gosfrith, portreeve,

and all the burghers within London, French and English, friendly; and I assure you that I will that ye all have rights before the law that had them in King Edward's day. And I will that every child be his father's heir after his father's day. And I will not allow that any man do any wrong to you. God keep you.

4. CORONATION CHARTER OF HENRY I., A. D. 1100.

Stubbs' Select Charters, 96-98. Latin.

In the year of the incarnation of the Lord, 1101, Henry, son of King William, after the death of his brother William, by the grace of God, king of the English, to all faithful, greeting:

1. Know that by the mercy of God, and by the common counsel of the barons of the whole kingdom of England, I have been crowned king of the same kingdom; and because the kingdom has been oppressed by unjust exactions, I, from regard to God, and from the love which I have toward you, in the first place make the holy church of God free, so that I will neither sell nor place at rent, nor, when archbishop, or bishop, or abbot is dead, will I take anything from the domain of the church, or from its men, until a successor is installed into it. And all the evil customs by which the realm of England was unjustly oppressed will I take away, which evil customs I partly set down here.

2. If any one of my barons, or earls, or others who hold from me shall have died, his heir shall not redeem his land as he did in the time of my brother, but shall relieve it by a just and legitimate relief. Similarly also the men of my barons shall relieve their lands from their lords by a just and legitimate relief.

3. And if any one of the barons or other men of mine wishes to give his daughter in marriage, or his sister or niece or relation, he must speak with me about it, but I will neither take anything from him for this permission, nor forbid him to give her in marriage, unless he should wish to join her to my enemy. And if when a baron or other man of mine is dead, a daughter remains as his heir, I will give her in marriage according to the judgment of my barons, along with her land. And if when a man is dead his wife remains, and is without children, she shall have her dowry and right of marriage, and I will not give her to a husband except according to her will.

4. And if a wife has survived with children, she shall have her dowry and right of marriage, so long as she shall have kept her body legitimately, and I will not give her in marriage, except according to

her will. And the guardian of the land and children shall be either the wife or another one of the relatives as shall seem to be most just. And I require that my barons should deal similarly with the sons and daughters or wives of their men.

5. The common tax on money[1] which used to be taken through the cities and counties, which was not taken in the time of King Edward, I now forbid altogether henceforth to be taken. If any one shall have been seized, whether a moneyer or any other, with false money, strict justice shall be done for it.

6. All fines and all debts which were owed to my brother, I remit, except my rightful rents, and except those payments which had been agreed upon for the inheritances of others or for those things which more justly affected others. And if any one for his own inheritance has stipulated anything, this I remit, and all reliefs which had been agreed upon for rightful inheritances.

7. And if any one of my barons or men shall become feeble, however he himself shall give or arrange to give his money, I grant that it shall be so given. Moreover, if he himself, prevented by arms, or by weakness, shall not have bestowed his money, or arranged to bestow it, his wife or his children or his parents, and his legitimate men shall divide it for his soul, as to them shall seem best.

8. If any of my barons or men shall have commited an offence he shall not give security to the extent of forfeiture of his money, as he did in the time of my father, or of my brother, but according to the measure of the offence so shall he pay, as he would have paid from the time of my father backward, in the time of my other predecessors; so that if he shall have been convicted of treachery or of crime, he shall pay as is just.

9. All murders moreover before that day in which I was crowned king, I pardon; and those which shall be done henceforth shall be punished justly according to the law of King Edward.

10. The forests, by the common agreement of my barons, I have retained in my own hand, as my father held them.

11. To those knights who hold their land by the cuirass, I yield

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[1] Monetagium, which is here translated "tax on money," was a payment made to the king or other lord, periodically, on condition that he would not change the standard of value during a given period. It was customary in Normandy. Ducange.

of my own gift the lands of their demesne ploughs free from all payments and from all labor, so that as they have thus been favored by such a great alleviation, so they may readily provide themselves with horses and arms for my service and for the defence of my kingdom.

12. A firm peace in my whole kingdom I establish and require to be kept from henceforth.

13. The law of King Edward I give to you again with those changes with which my father changed it by the counsel of his barons.

14. If any one has taken anything from my possessions since the death of King William, my brother, or from the possessions of any one, let the whole be immediately returned without alteration, and if any one shall have retained anything thence, he upon whom it is found will pay it heavily to me. Witnesses Maurice, bishop of London, and Gundulf, bishop, and William, bishop-elect, and Henry, earl, and Simon, earl, and Walter Giffard, and Robert de Montfort, and Roger Bigod, and Henry de Port, at London, when I was crowned.

5. CORONATION CHARTER OF KING STEPHEN, A. D. 1135.

Statutes of the Realm. I, 4. Latin.

Stephen, by the grace of God, king of the English, to the justices, sheriffs, barons, and all his ministers and faithful, French and English, greeting.

Know that I have conceded and by this my present charter confirmed to all my barons and men of England all the liberties and good laws which Henry, King of the English, my uncle, gave and conceded to them, and all the good laws and good customs which they had in the time of King Edward, I concede to them. Wherefore I wish and firmly command that they shall have and hold all those good laws and liberties from me and my heirs, they and their heirs, freely, quietly, and fully; and I prohibit anyone from bringing any obstacle, or impediment, or diminution upon them in these matters on pain of forfeiture to me.

Witness William Martel, at London.

6. CORONATION CHARTER OF HENRY II., A.D. 1154.

Statutes of the Realm. I. 4. Latin.

Henry, by the grace of God, king of England, duke of Normandy and Aquitaine and count of Anjou, to all the earls, barons, and his faithful, French and English, greeting. Know that, to the honor of

God and of the holy church and for the advantage of my whole kingdom, I have conceded and granted, and by my present charter confirmed to God and to the holy church, and to all the earls and barons, and to all my men all the concessions and grants and liberties and free customs which King Henry, my grandfather, gave and conceded to them. Similarly also, all the evil customs which he abolished and remitted, I remit and allow to be abolished for myself and my heirs. Therefore, I will and strictly require that the holy church and all the earls and barons, and all my men should have and hold all those customs and grants and liberties and free customs, freely and quietly, well and in peace, and completely, from me and my heirs to them and their heirs, as freely and quietly and fully in all things as King Henry, my grandfather, granted and conceded to them and by his charter confirmed them. Witness, Richard de Luci, at Westminster.

7. THE GREAT CHARTER.

GRANTED BY KING JOHN, JUNE 15, A.D. 1215.

Stubbs' Reprint. Latin.

John, by the grace of God, king of England, lord of Ireland, duke of Normandy and Aquitaine, count of Anjou, to the archbishops, bishops, abbots, earls, barons, justiciars, foresters, sheriffs, reeves, servants, and all bailiffs and his faithful people greeting. Know that by the suggestion of God and for the good of our soul and those of all our predecessors and of our heirs, to the honor of God and the exaltation of holy church, and the improvement of our kingdom, by the advice of our venerable fathers Stephen, archbishop of Canterbury, primate of all England and cardinal of the holy Roman church, Henry, archbishop of Dublin, William of London, Peter of Winchester, Jocelyn of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, and Benedict of Rochester, bishops; of Master Pandulf, subdeacon and member of the household of the lord Pope, of Brother Aymeric, master of the Knights of the Temple in England; and of the noblemen William Marshall, earl of Pembroke, William, earl of Salisbury, William, earl of Warren, William, earl of Arundel, Alan of Galloway, constable of Scotland, Warren Fitz-Gerald, Peter Fitz-Herbert, Hubert de Burgh, steward of Poitou, Hugh de Nevil, Matthew Fitz-Herbert, Thomas Bassett, Alan Bassett, Philip d'Albini, Robert

de Roppelay, John Marshall, John Fitz-Hugh, and others of our faithful.

1. In the first place we have granted to God, and by this our present charter confirmed, for us and our heirs forever, that the English church shall be free, and shall hold its rights entire and its liberties uninjured; and we will that it thus be observed; which is shown by this, that the freedom of elections, which is considered to be most important and especially necessary to the English church, we, of our pure and spontaneous will, granted, and by our charter confirmed, before the contest between us and our barons had arisen; and obtained a confirmation of it by the lord Pope Innocent III.; which we will observe and which we will shall be observed in good faith by our heirs forever.

We have granted moreover to all free men of our kingdom for us and our heirs forever all the liberties written below, to be had and holden by themselves and their heirs from us and our heirs.

2. If any of our earls or barons, or others holding from us in chief by military service shall have died, and when he has died his heir shall be of full age and owe relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an earl for the whole barony of an earl a hundred pounds; the heir or heirs of a baron for a whole barony a hundred pounds; the heir or heirs of a knight, for a whole knight's fee, a hundred shillings at most; and who owes less let him give less according to the ancient custom of fiefs.

3. If moreover the heir of any one of such shall be under age, and shall be in wardship, when he comes of age he shall have his inheritance without relief and without a fine.

4. The custodian of the land of such a minor heir shall not take from the land of the heir any except reasonable products, reasonable customary payments, and reasonable services, and this without destruction or waste of men or of property; and if we shall have committed the custody of the land of any such a one to the sheriff or to any other who is to be responsible to us for its proceeds, and that man shall have caused destruction or waste from his custody we will recover damages from him, and the land shall be committed to two legal and discreet men of that fief, who shall be responsible for its proceeds to us or to him to whom we have assigned them; and if we shall have given or sold to any one the custody of any such land, and he has caused destruction or waste there, he shall lose that custody, and it shall be handed over to two legal and discreet men of that fief who shall be in like manner responsible to us as is said above.

5. The custodian moreover, so long as he shall have the custody of the land, must keep up the houses, parks, warrens, fish ponds, mills, and other things perta ning to the land, from the proceeds of the land itself; and he must return to the heir, when he has come to full age, all his land, furnished with ploughs and implements of husbandry according as the time of wainage requires and as the proceeds of the land are able reasonably to sustain.

6. Heirs shall be married without disparity, so nevertheless that before the marriage is contracted, it shall be announced to the relatives by blood of the heir himself.

7. A widow, after the death of her husband, shall have her marriage portion and her inheritance immediately and without obstruction, nor shall she give anything for her dowry or for her marriage portion, or for her inheritance which inheritance her husband and she held on the day of the death of her husband; and she may remain in the house of her husband for forty days after his death, within which time her dowry shall be assigned to her.

8. No widow shall be compelled to marry so long as she prefers to live without a husband, provided she gives security that she will not marry without our consent, if she holds from us, or without the consent of her lord from whom she holds, if she holds from another.

9. Neither we nor our bailiffs will seize any land or rent, for any debt, so long as the chattels of the debtor are sufficient for the payment of the debt; nor shall the pledges of a debtor be distrained so long as the principal debtor himself has enough for the payment of the debt; and if the principal debtor fails in the payment of the debt, not having the wherewithal to pay it, the pledges shall be responsible for the debt; and if they wish, they shall have the lands and the rents of the debtor until they shall have been satisfied for the debt which they have before paid for him, unless the principal debtor shall have shown himself to be quit in that respect towards those pledges.

10. If any one has taken anything from the Jews, by way of a loan, more or less, and dies before that debt is paid, the debt shall not draw interest so long as the heir is under age, from whomsoever he holds; and if that debt falls into our hands, we will take nothing except the chattel contained in the agreement.

11. And if any one dies leaving a debt owing to the Jews, his wife shall have her dowry, and shall pay nothing of that debt; and if there remain minor children of the dead man, necessaries shall be pro-

vided for them corresponding to the holding of the dead man; and from the remainder shall be paid the debt, the service of the lords being retained. In the same way debts are to be treated which are owed to others than the Jews.

12. No scutage or aid shall be imposed in our kingdom except by the common council of our kingdom, except for the ransoming of our body, for the making of our oldest son a knight, and for once marrying our oldest daughter, and for these purposes it shall be only a reasonable aid; in the same way it shall be done concerning the aids of the city of London.

13. And the city of London shall have all its ancient liberties and free customs, as well by land as by water. Moreover, we will and grant that all other cities and boroughs and villages and ports shall have all their liberties and free customs.

14. And for holding a common council of the kingdom concerning the assessment of an aid otherwise than in the three cases mentioned above, or concerning the assessment of a scutage we shall cause to be summoned the archbishops, bishops, abbots, earls, and greater barons by our letters under seal; and besides we shall cause to be summoned generally, by our sheriffs and bailiffs all those who hold from us in chief, for a certain day, that is at the end of forty days at least, and for a certain place; and in all the letters of that summons, we will express the cause of the summons, and when the summons has thus been given the business shall proceed on the appointed day, on the advice of those who shall be present, even if not all of those who were summoned have come.

15. We will not grant to any one, moreover, that he shall take an aid from his free men, except for ransoming his body, for making his oldest son a knight, and for once marrying his oldest daughter; and for these purposes only a reasonable aid shall be taken.

16. No one shall be compelled to perform any greater service for a knight's fee, or for any other free tenement than is owed from it.

17. The common pleas shall not follow our court, but shall be held in some certain place.

18. The recognitions of *novel disseisin*, *mort d'ancestor*, and *darrein presentment* shall be held only in their own counties and in this manner: we, or if we are outside of the kingdom our principal justiciar, will send two justiciars through each county four times a year, who with four knights of each county, elected by the county, shall hold in the

county and on the day and in the place of the county court, the aforesaid assizes of the county.

19. And if the aforesaid assizes cannot be held within the day of the county court, a sufficient number of knights and free-holders shall remain from those who were present at the county court on that day to give the judgments, according as the business is more or less.

20. A free man shall not be fined for a small offence, except in proportion to the measure of the offence; and for a great offence he shall be fined in proportion to the magnitude of the offence, saving his freehold; and a merchant in the same way, saving his merchandise; and the villain shall be fined in the same way, saving his wainage, if he shall be at our mercy; and none of the above fines shall be imposed except by the oaths of honest men of the neighborhood.

21. Earls and barons shall only be fined by their peers, and only in proportion to their offence.

22. A clergyman shall be fined, like those before mentioned, only in proportion to his lay holding, and not according to the extent of his ecclesiastical benefice.

23. No manor or man shall be compelled to make bridges over the rivers except those which ought to do it of old and rightfully.

24. No sheriff, constable, coroners, or other bailiffs of ours shall hold pleas of our crown.

25. All counties, hundreds, wapentakes, and trithings shall be at the ancient rents and without any increase, excepting our demesne manors.

26. If any person holding a lay fief from us shall die, and our sheriff or bailiff shall show our letters-patent of our summons concerning a debt which the deceased owed to us, it shall be lawful for our sheriff or bailiff to attach and levy on the chattels of the deceased found on his lay fief, to the value of that debt, in the view of legal men, so nevertheless that nothing be removed thence until the clear debt to us shall be paid; and the remainder shall be left to the executors for the fulfilment of the will of the deceased; and if nothing is owed to us by him, all the chattels shall go to the deceased, saving to his wife and children their reasonable shares.

27. If any free man dies intestate, his chattels shall be distributed by the hands of his near relatives and friends, under the oversight of the church, saving to each one the debts which the deceased owed to him.

28. No constable or other bailiff of ours shall take anyone's grain or other chattels, without immediately paying for them in money, unless he is able to obtain a postponement at the good-will of the seller.

29. No constable shall require any knight to give money in place of his ward of a castle if he is willing to furnish that ward in his own person or through another honest man, if he himself is not able to do it for a reasonable cause; and if we shall lead or send him into the army he shall be free from ward in proportion to the amount of time by which he has been in the army through us.

30. No sheriff or bailiff of ours or any one else shall take horses or wagons of any free man for carrying purposes except on the permission of that free man.

31. Neither we nor our bailiffs will take the wood of another man for castles, or for anything else which we are doing, except by the permission of him to whom the wood belongs.

32. We will not hold the lands of those convicted of a felony for more than a year and a day, after which the lands shall be returned to the lords of the fiefs.

33. All the fish-weirs in the Thames and the Medway, and throughout all England shall be done away with, except those on the coast.

34. The writ which is called *praecipe* shall not be given for the future to anyone concerning any tenement by which a free man can lose his court.

35. There shall be one measure of wine throughout our whole kingdom, and one measure of ale, and one measure of grain, that is the London quarter, and one width of dyed cloth and of russets and of halbergets, that is two ells within the selvages; of weights, moreover it shall be as of measures.

36. Nothing shall henceforth be given or taken for a writ of inquisition concerning life or limbs, but it shall be given freely and not denied.

37. If anyone holds from us by fee farm or by soccage or by burgage, and from another he holds land by military service, we will not have the guardianship of the heir or of his land which is of the fief of another, on account of that fee farm, or soccage, or burgage; nor will we have the custody of that fee farm, or soccage, or burgage, unless that fee farm itself owes military service. We will not have the guardianship of the heir or of the land of anyone, which he holds from another by military

service on account of any petty serjeanty which he holds from us by the service of paying to us knives or arrows, or things of that kind.

38. No bailiff for the future shall place any one to his law on his simple affirmation, without credible witnesses brought for this purpose.

39. No free man shall be taken or imprisoned or dispossessed, or outlawed, or banished, or in any way destroyed, nor will we go upon him, nor send upon him, except by the legal judgment of his peers or by the law of the land.

40. To no one will we sell, to no one will we deny, or delay right or justice.

41. All merchants shall be safe and secure in going out from England and coming into England and in remaining and going through England, as well by land as by water, for buying and selling, free from all evil tolls, by the ancient and rightful customs, except in time of war, and if they are of a land at war with us; and if such are found in our land at the beginning of war, they shall be attached without injury to their bodies or goods, until it shall be known from us or from our principal justiciar in what way the merchants of our land are treated who shall be then found in the country which is at war with us; and if ours are safe there, the others shall be safe in our land.

42. It is allowed henceforth to anyone to go out from our kingdom, and to return, safely and securely, by land and by water, saving their fidelity to us, except in time of war for some short time, for the common good of the kingdom; excepting persons imprisoned and outlawed according to the law of the realm, and people of a land at war with us, and merchants, of whom it shall be done as is before said.

43. If anyone holds from any escheat, as from the honor of Wallingford, or Nottingham, or Boulogne, or Lancaster, or from other escheats which are in our hands and are baronies, and he dies, his heir shall not give any other relief, nor do to us any other service than he would do to the baron, if that barony was in the hands of the baron; and we will hold it in the same way as the baron held it.

44. Men who dwell outside the forest shall not henceforth come before our justiciars of the forest, on common summons, unless they are in a plea of, or pledges for any person or persons who are arrested on account of the forest.

45. We will not make justiciars, constables, sheriffs or bailiffs except of such as know the law of the realm and are well inclined to observe it.

46. All barons who have founded abbeys for which they have charters of kings of England, or ancient tenure, shall have their custody when they have become vacant, as they ought to have.

47. All forests which have been afforested in our time shall be disafforested immediately; and so it shall be concerning river banks which in our time have been fenced in.

48. All the bad customs concerning forests and warrens and concerning foresters and warreners, sheriffs and their servants, river banks and their guardians shall be inquired into immediately in each county by twelve sworn knights of the same county, who shall be elected by the honest men of the same county, and within forty days after the inquisition has been made, they shall be entirely destroyed by them, never to be restored, provided that we be first informed of it, or our justiciar, if we are not in England.

49. We will give back immediately all hostages and charters which have been liberated to us by Englishmen as security for peace or for faithful service.

50. We will remove absolutely from their bailiwicks the relatives of Gerard de Athyes, so that for the future they shall have no bailiwick in England; Engelard de Cygony, Andrew, Peter and Gyon de Chancelles, Gyon de Cygony, Geoffrey de Martin and his brothers, Philip Mark and his brothers, and Geoffrey his nephew and their whole retinue.

51. And immediately after the re-establishment of peace we will remove from the kingdom all foreign-born soldiers, cross-bow men, servants, and mercenaries who have come with horses and arms for the injury of the realm.

52. If anyone shall have been dispossessed or removed by us without legal judgment of his peers, from his lands, castles, franchises, or his right we will restore them to him immediately; and if contention arises about this, then it shall be done according to the judgment of the twenty-five barons, of whom mention is made below concerning the security of the peace. Concerning all those things, however, from which anyone has been removed or of which he has been deprived without legal judgment of his peers by King Henry our father, or by King Richard our brother, which we have in our hand, or which others hold, and which it is our duty to guarantee, we shall have respite till the usual term of crusaders; excepting those things about which the suit has been begun or the inquisition made by our writ before our assumption of the cross; when, however, we shall return from our journey or if by

chance we desist from the journey, we will immediately show full justice in regard to them.

53. We shall, moreover, have the same respite and in the same manner about showing justice in regard to the forests which are to be disafforested or to remain forests, which Henry our father or Richard our brother made into forests; and concerning the custody of lands which are in the fief of another, custody of which we have until now had on account of a fief which anyone has held from us by military service; and concerning the abbeys which have been founded in fiefs of others than ourselves, in which the lord of the fee has asserted for himself a right; and when we return or if we should desist from our journey we will immediately show full justice to those complaining in regard to them.

54. No one shall be seized nor imprisoned on the appeal of a woman concerning the death of anyone except her husband.

55. All fines which have been imposed unjustly and against the law of the land, and all penalties imposed unjustly and against the law of the land are altogether excused, or will be on the judgment of the twenty-five barons of whom mention is made below in connection with the security of the peace, or on the jundgment of the majority of them, along with the aforesaid Stephen, archbishop of Canterbury, if he is able to be present, and others whom he may wish to call for this purpose along with him. And if he should not be able to be present, nevertheless the business shall go on without him, provided that if any one or more of the aforesaid twenty-five barons are in a similar suit they should be removed as far as this particular judgment goes, and others who shall be chosen and put upon oath, by the remainder of the twenty-five shall be substituted for them for this purpose.

56. If we have dispossessed or removed any Welshmen from their lands, or franchises, or other things, without legal judgment of their peers, in England, or in Wales, they shall be immediately returned to them; and if a dispute shall have arisen over this, then it shall be settled in the borderland by judgment of their peers, concerning holdings of England according to the law of England, concerning holdings of Wales according to the law of Wales, and concerning holdings of the borderland according to the law of the borderland. The Welsh shall do the same to us and ours.

57. Concerning all those things, however, from which any one of the Welsh shall have been removed or dispossessed without legal judg-

ment of his peers, by King Henry our father, or King Richard our brother, which we hold in our hands, or which others hold, and we are bound to warrant to them, we shall have respite till the usual period of crusaders, those being excepted about which suit was begun or inquisition made by our command before our assumption of the cross. When, however, we shall return or if by chance we shall desist from our journey, we will show full justice to them immediately, according to the laws of the Welsh and the aforesaid parts.

58. We will give back the son of Lewellyn immediately, and all the hostages from Wales and the charters which had been liberated to us as a security for peace.

59. We will act toward Alexander, king of the Scots, concerning the return of his sisters and his hostages, and concerning his franchises and his right, according to the manner in which we shall act toward our other barons of England, unless it ought to be otherwise by the charters which we hold from William his father, formerly king of the Scots, and this shall be by the judgment of his peers in our court.

60. Moreover, all those customs and franchises mentioned above which we have conceded in our kingdom, and which are to be fulfilled, as far as pertains to us, in respect to our men; all men of our kingdom as well clergy as laymen, shall observe as far as pertains to them, in respect to their men.

61. Since, moreover, for the sake of God, and for the improvement of our kingdom, and for the better quieting of the hostility sprung up lately between us and our barons, we have made all these concessions; wishing them to enjoy these in a complete and firm stability forever, we make and concede to them the security described below; that is to say, that they shall elect twenty-five barons of the kingdom, whom they will, who ought with all their power to observe, hold, and cause to be observed, the peace and liberties which we have conceded to them, and by this our present charter confirmed to them; in this manner, that if we or our justiciar, or our bailiffs, or any one of our servants shall have done wrong in any way toward any one, or shall have transgressed any of the articles of peace or security; and the wrong shall have been shown to four barons of the aforesaid twenty-five barons, let those four barons come to us or to our justiciar, if we are out of the kingdom, laying before us the transgression, and let them ask that we cause that transgression to be corrected without delay. And if we shall not have corrected the transgression or, if we shall be out of the king-

dom, if our justiciar shall not have corrected it within a period of forty days, counting from the time in which it has been shown to us or to our justiciar, if we are out of the kingdom; the aforesaid four barons shall refer the matter to the remainder of the twenty-five barons, and let these twenty-five barons with the whole community of the country distress and injure us in every way they can; that is to say by the seizure of our castles, lands, possessions, and in such other ways as they can until it shall have been corrected according to their judgment, saving our person and that of our queen, and those of our children; and when the correction has been made, let them devote themselves to us as they did before. And let whoever in the country wishes take an oath that in all the above-mentioned measures he will obey the orders of the aforesaid twenty-five barons, and that he will injure us as far as he is able with them, and we give permission to swear publicly and freely to each one who wishes to swear, and no one will we ever forbid to swear. All those, moreover, in the country who of themselves and their own will are unwilling to take an oath to the twenty-five barons as to distressing and injuring us along with them, we will compel to take the oath by our mandate, as before said. And if any one of the twenty-five barons shall have died or departed from the land or shall in any other way be prevented from taking the above-mentioned action, let the remainder of the aforesaid twenty-five barons choose another in his place, according to their judgment, who shall take an oath in the same way as the others. In all those things, moreover, which are committed to those five and twenty barons to carry out, if perhaps the twenty-five are present, and some disagreement arises among them about something, or if any of them when they have been summoned are not willing or are not able to be present, let that be considered valid and firm which the greater part of those who are present arrange or command, just as if the whole twenty-five had agreed in this; and let the aforesaid twenty-five swear that they will observe faithfully all the things which are said above, and with all their ability cause them to be observed. And we will obtain nothing from anyone, either by ourselves or by another by which any of these concessions and liberties shall be revoked or diminished; and if any such thing shall have been obtained, let it be invalid and void, and we will never use it by ourselves or by another.

62. And all ill-will, grudges, and anger sprung up between us and our men, clergy and laymen, from the time of the dispute, we have fully renounced and pardoned to all. Moreover, all transgressions com-

mitted on account of this dispute, from Easter in the sixteenth year of our reign till the restoration of peace, we have fully remitted to all, clergy and laymen, and as far as pertains to us, fully pardoned. And moreover we have caused to be made for them testimonial letters-patent of lord Stephen, archbishop of Canterbury, lord Henry, archbishop of Dublin, and of the aforesaid bishops and of master Pandulf, in respect to that security and the concessions named above.

63. Wherefore we will and firmly command that the Church of England shall be free, and that the men in our kingdom shall have and hold all the aforesaid liberties, rights and concessions, well and peacefully, freely and quietly, fully and completely, for themselves and their heirs, from us and our heirs, in all things and places, forever, as before said. It has been sworn, moreover, as well on our part as on the part of the barons, that all these things spoken of above shall be observed in good faith and without any evil intent. Witness the above named and many others. Given by our hand in the meadow which is called Runnymede, between Windsor and Staines, on the fifteenth day of June, in the seventeenth year of our reign.

8. CORONATION OATH OF HENRY III., A.D. 1216.

Matthew Paris, Greater Chronicles. III. 1, 2. Rolls Series. Latin.

Standing there before the high altar, the holy gospels and the relics of many saints having been placed near, Jocelyn [bishop] of Bath dictating the oath, he swore before the clergy and people that he would observe honor, peace, and reverence toward God and holy church and its ministers, all the days of his life; that concerning the people committed to him, he would preserve right justice; and that he would abolish evil laws and unjust customs, if there were such in the realm, and abide by the good ones, and make them to be observed by all good men.

9. CONFIRMATION OF THE CHARTERS, BY EDWARD I., 1297.

Statutes of the Realm, I, 123, 124. French.

1. Edward, by the grace of God king of England, lord of Ireland, and duke of Aquitaine to all those that shall hear or see these present letters, greeting: Know ye, that we to the honor of God and of holy church, and to the profit of our realm, have granted for us and our heirs that the Charter of Liberties and the Charter of the Forest, which

were made by common assent of all the realm, in the time of King Henry our father, shall be kept in every point without breach. And we will that the same charters shall be sent under our seal as well to our justices of the forest as to others, and to all sheriffs of shires, and to all other officers and to all our cities throughout the realm, together with our writs, in which it shall be contained that they cause the aforesaid charters to be published, and declare to the people that we have confirmed them in all points, and that our justices, sheriffs, mayors, and other officials which under us have the laws of our land to guide, shall allow the said charters pleaded before them in judgment in all their points; that is to wit, the Great Charter as the common law and the Charter of the Forest according to the assize of the forest, for the weal of our realm.

2. And we will that if any judgment be given from henceforth, by the justices or by any other of our officials that hold pleas before them, against the points of the charters aforesaid, it shall be undone and holden for naught.

3. And we will that the same charters shall be sent under our seal to cathedral churches throughout our realm, there to remain, and shall be read before the people twice yearly.

4. And that all archbishops and bishops shall pronounce the sentence of greater excommunication against all those that by word, deed, or counsel, do contrary to the aforesaid charters, or that in any point break or undo them. And that the said curses be twice a year denounced and published by the prelates aforesaid. And if the same prelates or any of them be remiss in the denunciation of the said sentences, the archbishops of Canterbury and York for the time being, as is fitting, shall compel and distrain them to make that denunciation in form aforesaid.

5. And for as much as divers people of our realm are in fear that the aids and tasks which they have given to us beforetime towards our wars and other business, of their own grant and good-will, howsoever they were made, might turn to a bondage to them and their heirs, because they might be at another time found in the rolls, and so likewise the prises taken throughout the realm by our ministers; we have granted for us and our heirs, that we shall not draw such aids, tasks, nor prises, into a custom, for anything that hath been done heretofore or that may be found by roll or in any other manner.

6. Moreover we have granted for us and our heirs, as well to

archbishops, bishops, abbots, priors, and other folk of holy church, as also to earls, barons, and to all the commonalty of the land, that for no business from henceforth will we take such manner of aids, tasks, nor prises, but by the common consent of the realm, and for the common profit thereof, saving the ancient aids and prises due and accustomed.

7. And for as much as the more part of the commonalty of the realm find themselves sore grieved with the maletote of wools, that is to wit, a toll of forty shillings for every sack of wool, and have made petition to us to release the same; we, at their requests, have clearly released it, and have granted for us and our heirs that we shall not take such thing or any other without their common assent and good-will, saving to us and our heirs the custom of wools, skins, and leather granted before by the commonalty aforesaid. In witness of which things we have caused these our letters to be made patent. Witness Edward, our son, at London, the tenth day of October, the five and twentieth year of our reign.

And be it remembered that this same charter in the same terms, word for word, was sealed in Flanders under the king's great seal, that is to say at Ghent, the fifth day of November in the twenty-fifth year of the reign of our aforesaid lord the king, and sent into England.

10. CORONATION OATH OF EDWARD II., A.D. 1307.

Statutes of the Realm, I. 168. French.

[*Archbishop.*] Sire, will you grant and observe, and by your oath confirm to the people of England the laws and customs granted to them by the ancient kings of England, your predecessors, just and devoted to God; and especially the laws and customs and franchises granted to the clergy and to the people by the glorious king, saint Edward, your predecessor? [*King.*] I grant them and promise them. [*Archbishop.*] Sire, will you keep toward God and holy church, and clergy and people entire peace and concord in God, according to your power? [*King.*] I will keep them. [*Archbishop.*] Sire, will you cause to be made in all your judgments equal and right justice and judgment, in mercy and truth, according to your power? [*King.*] I will do it. [*Archbishop.*] Sire, do you grant that the just laws and customs will be observed which the commonalty of your realm have chosen, and do you promise to protect and enforce them to the honor of God, according to your power? [*King.*] I grant and promise it.

II. JUDICIAL DOCUMENTS.

In England, during the Saxon period, the hundred and the shire moots evidently exercised a quite varied jurisdiction, an activity which lasted at least to the thirteenth century. Feudal or private jurisdiction grew up as an intrusion upon these older courts and with the Norman conquest an ecclesiastical jurisdiction was formally separated from them. But it was the judicial powers of the king and of his judges that were destined to predominate over, and eventually to supersede all these other courts. Moreover the centralized government of the Norman and Angevin kings was made effective largely through the agency of royal officials whose principal duties were of a judicial nature. The following documents are intended to illustrate the continuance of the earliest and the growth and development of the latest of these forms of judicial organization.

I. PROVISIONS FOR THE HUNDRED AND SHIRE COURTS.

Thorpe: Ancient Laws and Institutes of England, I. pp. 258, and 268. Anglo-Saxon; and Stubbs' Select Charters, p. 81. Latin.

Edgar. This is the ordinance how the hundred shall be held.

1. That they meet always within four weeks: and that every man do justice to another.

2. That a thief shall be pursued . . . . . If there be immediate need let it be made known to the hundred-man, and let him inform the tithing-men; and let all go forth to where God may direct them to go: let them do justice on the thief, as it was formerly the enactment of Edmund. And let the money value be paid to him who owns the cattle, and the rest be divided into two; half to the hundred, half to the lord, excepting men; and let the lord take possession of the men.

. . . . . .

5. We have also ordained; if the hundred pursue a track into another hundred, that notice be given to the hundred-man, and that he go with them. If he neglect this, let him pay thirty shillings to the king.

. . . . . .

7. In the hundred, as in any other court, we ordain that folk-right be pronounced in every suit, and that a term be fixed when it shall be fulfilled. And he who shall break that term, unless it be by his lord's decree, let him make compensation with thirty shillings, and on the day fixed fulfil that which he ought to have done before

. . . . . .

9. Let the iron that is for the three-fold ordeal weigh three pounds; and for the single, one pound.

. . . . . .

Edgar, II, 5. And let the hundred court be attended as it was before fixed; and three times in the year let a borough court be held; and twice, a shire court, and let there be present the bishop of the shire and the ealdorman, and there let both expound as well the law of God as the secular law.

. . . . . .

William I. 8. Let the hundred and the county be summoned as our ancestors ordered.

2. A SHIRE-MOOT IN HEREFORDSHIRE, ABOUT A. D. 1036.

Thorpe, Diplomatarium Anglicum, p. 336. Anglo-Saxon.

Here is made known in this writing, that a shire-moot sat at Aegelnoth's stone, in the day of King Cnut. There sat Aethelstan, bishop, and Ranig, ealdorman, and Edwin, the ealdorman's son, and Leofwine, Wulfsige's son, and Thurkil White; and Tofig Prud came there on the king's errand; and Bryning, shire-reeve, and Aegelweard of Frome and Leofwine of Frome and Godric of Stoke, and all the thanes in Herefordshire were there. Then came traveling there to the moot Edwin, Eanwen's son, and there raised a claim against his own mother to a portion of land, namely at Wellington and Coadley. Then asked the bishop, who would answer for his mother. Then answered Thurkil White and said that he would if he knew the claim. Since he did not know the claim, they deputed three thanes from the moot to where she was, which was at Fawley. These were Leofwine of Frome, and Aegelsig the Red, and Winsige Scaegthman And when they came to her they asked what claim she had to the lands for which her son was suing. Then said she that she had no land that in any way belonged to him, and was bitterly angry with her son. Then she called to her Leoflaed, her kinswoman, Thurkil's wife, aud spoke to her as follows, before them all: "Here sits Leoflaed, my kinswoman, to whom I give not only my land, but my gold, and garments, and robes, and all that I own, after my day." And she then said to the thanes: "Do thane-like and well; announce my errand to the moot before all the good men, and tell them to whom I have given my land and all my property; and to my own son never anything, and bid them be witnesses of this." And they then did so, rode to the moot, and declared to all the good men what she had laid upon them. Then Thurkil White stood up in the moot and prayed all the thanes to grant to his wife clean the lands

which her kinswoman had given her, and they did so. And Thurkil then rode to St. Aethelbert's monastery, with the leave and witness of all the folk, and caused it to be set in a Christ's book.

3. WRIT OF WILLIAM II., FOR AN INQUISITION.

Palgrave's English Commonwealth, II, clxxix. Latin.

The king to William de Cahaunis greeting: I require you to cause the shire of Hampton to meet, and on its judgment to decide whether the land of Isham paid a rent to the monks of St. Benedict, in the time of my father, and if this is found to have been so, let it be in the control of the abbot; thus if it is found to be demesne land, whoever holds it let him hold it from the abbot, and acknowledge him. And if he is not willing, let the abbot have it in his control, and see that no further complaint comes to me about it. Witness William, bishop of Durham.

4. WRIT OF WILLIAM, SON OF HENRY I., FOR A RECOGNITION.

Palgrave's English Commonwealth, II, clxxix. Latin.

William, son of the king, to William, sheriff of Kent, greeting: I command you to require Hamo, son of Vitalis, and the honest men of the neighborhood of Sandwich, whom Hamo will nominate, to give a verdict [*ut dicant veritatem*] concerning the ship of the abbot of St. Augustine. And if that ship came by sea on the day when the king recently crossed the sea then I command that it should now go free, until the king comes into England, and in the meantime that it should be given back to the aforesaid abbot. Witness the bishop of Salisbury and the chancellor, at Woodstock.

5. THE ASSIZE OF CLARENDON, 1166.

Stubbs' Select Charters, 137-139. Latin.

Here begins the Assize of Clarendon, made by King Henry II. with the assent of the archbishops, bishops, abbots, earls and barons of all England.

§ 1. In the first place, the aforesaid King Henry, with the consent of all his barons, for the preservation of the peace and the keeping of justice, has enacted that inquiry should be made through the several counties and through the several hundreds, by twelve of the most legal men of the hundred and by four of the most legal men of each manor,

upon their oath that they will tell the truth, whether there is in their hundred or in their manor, any man who has been accused or publicly suspected of himself being a robber, or murderer, or thief, or of being a receiver of robbers, or murderers, or thieves, since the lord king has been king. And let the justices make this inquiry before themselves, and the sheriffs before themselves.

§ 2. And let anyone who has been found by the oath of the aforesaid, to have been accused or publicly suspected of having been a robber, or murderer, or thief, or a receiver of them, since the lord king has been king, be arrested and go to the ordeal of water and let him swear that he has not been a robber, or murderer, or thief, or receiver of them since the lord king has been king, to the value of five shillings, so far as he knows.

§ 3. And if the lord of the man who has been arrested or his steward or his men shall have claimed him, with a pledge, within the third day after he has been seized, let him be given up and his chattels until he himself makes his law.

§ 4. And when a robber, or murderer, or thief, or receiver of them shall have been seized through the above-mentioned oath, if the justices are not to come very soon into that county where they have been arrested, let the sheriffs send word to the nearest justice by some intelligent man that they have arrested such men, and the justices will send back word to the sheriffs where they wish that these should be brought before them; and the sheriffs shall bring them before the justices; and along with these they shall bring from the hundred and the manor where they have been arrested, two legal men to carry the record of the county and of the hundred as to why they were seized, and there before the justice let them make their law.

§ 5. And in the case of those who have been arrested through the aforesaid oath of this assize, no one shall have court, or judgment, or chattels, except the lord king in his court before his justices, and the lord king shall have all their chattels. In the case of those, however, who have been arrested, otherwise than through this oath, let it be as it has been accustomed and ought to be.

§ 6. And the sheriffs who have arrested them shall bring such before the justice without any other summons than they have from him. And when robbers, or murderers, or thieves, or receivers of them, who have been arrested through the oath or otherwise, are handed over to the sheriffs they also must receive them immediately without delay.

§ 7. And in the several counties where there are no jails, let such be made in a borough or in some castle of the king, from the money of the king and from his forest, if one shall be near, or from some other neighboring forest, on the view of the servants of the king; in order that in them the sheriffs may be able to detain those who have been seized by the officials who are accustomed to do this or by their servants.

§ 8. And the lord king moreover wills that all should come to the county courts to make this oath, so that no one shall remain behind because of any franchise which he has or court or jurisdiction which he had, but that they should come to the making of this oath.

§ 9. And there is to be no one within a castle or without a castle or even in the honor of Wallingford, who may forbid the sheriffs to enter into his court or his land for seeing to the frankpledges and that all are under pledges; and let them be sent before the sheriffs under a free pledge.

§ 10. And in cities and boroughs, let no one have men or receive them in his house or in his land or his soc, whom he does not take in hand that he will produce before the justice if they shall be required, or else let them be under a frankpledge.

§ 11. And let there be none in a city or borough or in a castle or without, or even in the honor of Wallingford, who shall forbid the sheriffs to enter into his land or his jurisdiction to arrest those who have been charged or publicly suspected of being robbers or murderers or thieves or receivers of them, or outlaws, or persons charged concerning the forest; but he requires that they should aid them to capture these.

§ 12. And if any one is captured who has in his possession the fruits of robbery or theft, if he is of bad reputation and has an evil testimony from the public, and has not a warrant, let him not have law. And if he shall not have been accused on account of the possession which he has, let him go to the water.

§ 13. And if any one shall have acknowledged robbery or murder or theft or the reception of them in the presence of legal men or of the hundreds, and afterwards shall wish to deny it, he shall not have law.

§ 14. The lord king wills moreover that those who make their law and shall be absolved by the law, if they are of very bad testimony, and publicly and disgracefully spoken ill of by the testimony of many and legal men, shall abjure the lands of the king, so that within eight days they shall go over the sea, unless the wind shall have detained them;

and with the first wind which they shall have afterward they shall go over the sea, and they shall not afterward return into England, except on the permission of the lord king; and then let them be outlawed if they return, and if they return they shall be seized as outlaws.

§ 15. And the lord king forbids any vagabond, that is a wandering or an unknown man, to be sheltered anywhere except in a borough, and even there he shall be sheltered only one night, unless he shall be sick there, or his horse, so that he is able to show an evident excuse.

§ 16. And if he shall have been there more than one night, let him be arrested and held until his lord shall come to give securities for him, or until he himself shall have secured pledges; and let him likewise be arrested who has sheltered him.

§ 17. And if any sheriff shall have sent word to any other sheriff that men have fled from his county into another county, on account of robbery or murder or theft, or the reception of them, or for outlawry or for a charge concerning the forest of the king, let him arrest them. And even if he knows of himself or through others that such men have fled into his county, let him arrest them and hold them until he shall have secured pledges from them.

§ 18. And let all sheriffs cause a list to be made of all fugitives who have fled from their counties; and let them do this in the presence of their county courts, and they will carry the written names of these before the justices when they come first before these, so that they may be sought through all England, and their chattels may be seized for the use of the king.

§ 19. And the lord king wills that, from the time when the sheriffs have received the summons of the justices in eyre to appear before them with their county courts, they shall gather together their county courts and make inquiry for all who have recently come into their counties since this assize; and that they should send them away with pledges that they will be before the justices, or else keep them in custody until the justices come to them, and then they shall have them before the justices.

§ 20. The lord king moreover prohibits monks and canons and all religious houses from receiving any one of the lesser people as a monk or canon or brother, until it is known of what reputation he is, unless he shall be sick unto death.

§ 21. The lord king moreover forbids any one in all England to receive in his land or his jurisdiction or in a house under him any one

of the sect of those renegades who have been excommunicated and branded at Oxford. And if anyone shall have received them, he will be at the mercy of the lord king, and the house in which they have been shall be carried outside the village and burned. And each sheriff will take this oath that he will hold this, and will make all his servants swear this, and the stewards of the barons, and all knights and free tenants of the counties.

§ 22. And the lord king wills that this assize shall be held in his kingdom so long as it shall please him.

6. THE CONSTITUTIONS OF CLARENDON, A. D. 1164.

Stubbs' Select Charters, 131–134. Latin.

In the year of the incarnation of the Lord, 1164, of the papacy of Alexander, the fourth year, of the most illustrious king of the English, Henry II., the tenth year, in the presence of the same king, has been made this memorial or acknowledgment of a certain part of the customs and franchises and dignities of his predecessors, that is to say of King Henry, his grandfather, and of other kings, which ought to be observed and held in the kingdom. And on account of the discussions and disputes which have arisen between the clergy and the justices of our lord the king and the barons of the kingdom concerning the customs and dignities, this acknowledgment is made in the presence of the archbishops and bishops and clergy and earls and barons and principal men of the kingdom. And these customs, acknowledged by the archbishops and bishops and earls and barons, and by the most noble and ancient of the kingdom, Thomas, archbishop of Canterbury, and Roger, archbishop of York, and Gilbert, bishop of London, and Henry, bishop of Winchester, and Nigel, bishop of Ely, and William, bishop of Norwich, and Robert, bishop of Lincoln, and Hilary, bishop of Chichester, and Jocelyn, bishop of Salisbury, and Richard, bishop of Chester, and Bartholomew, bishop of Exeter, and Robert, bishop of Hereford, and David, bishop of Man, and Roger, bishop-elect of Worcester have conceded, and in the word of truth by their living voice have firmly promised to the lord king and to his heirs should be held and observed, in good faith and without any evil intention; the following being present: Robert, earl of Leicester, Reginald, earl of Cornwall, Conan, count of Brittany, John, count of Eu, Roger, earl of Clare, earl Geoffrey de Mandeville, Hugh, earl of Chester, William, earl of Arundel, Earl Patrick, William, earl Ferrers, Richard de Lacy, Reginald de St. Valery, Roger Bigod, Reg-

inald de Warenne, Richer de Aquila, William de Braose, Richard de Camville, Nigel de Mowbray, Simon de Warfield, Humphrey de Bohun, Matthew de Hereford, Walter de Medway, Manasses Bisett, steward, William Malet, William de Courcy, Robert de Dunstanville, Jocelyn de Balliol, William de Lanvale, William de Cheyney, Geoffrey de Vere, William de Hastings, Hugh de Moreville, Alan de Neville, Simon Fitz-Peter, William Malduit, chamberlain, John Malduit, John Marshall, Peter de Mare, and many others of the principal men and nobles of the kingdom, as well clergy as laity.

Of these acknowledged customs and dignities of the realm, a certain part is contained in the present writing. Of this part the heads are as follows:

§ 1. If any controversy has arisen concerning the advowson and presentation of churches between laymen, or between laymen and ecclesiastics, or between ecclesiastics, it is to be considered or settled in the court of the lord king.

§ 2. Churches of the fee of the lord king cannot be given perpetually without his assent and grant.

§ 3. Clergymen charged and accused of anything, when they have been summoned by a justice of the king shall come into his court, to respond there to that which it shall seem good to the court of the king for them to respond to, and in the ecclesiastical court to what it shall seem good should be responded to there; so that the justice of the king shall send into the court of holy church to see how the matter shall be treated there. And if a clergyman shall have been convicted or has confessed, the church ought not to protect him otherwise.

§ 4. It is not lawful for archbishops, bishops, and persons of the realm to go out of the realm without the permission of the lord king. And if they go out, if it please the lord king, they shall give security that neither in going nor in making a stay nor in returning will they seek evil or loss to the king or the kingdom.

§ 5. Excommunicated persons ought not to give permanent security nor offer an oath, but only security and a pledge to stand to the judgment of the church, in order that they may be absolved.

§ 6. Laymen ought not to be accused except by definite and legal accusers and witnesses, in the presence of the bishop, so that the archdeacon shall not lose his right, nor anything which he ought to have from it. And if there are such persons as are blamed, but no one wishes or no one dares to accuse them, let the sheriff when required by

the bishop cause twelve legal men of the neighborhood or of the township to take an oath in the presence of the bishop that they will show the truth about it according to their conscience.

§ 7. No one who holds from the king in chief, nor any one of the officers of his demesnes shall be excommunicated, nor the lands of any one of them placed under an interdict, unless the lord king, if he is in the land, first agrees, or his justice, if he is out of the realm, in order that he may do right concerning him; and so that what shall pertain to the king's court shall be settled there, and for that which has respect to the ecclesiastical court, that it may be sent to the same to be considered there.

§ 8. Concerning appeals, if they should occur, they ought to proceed from the archdeacon to the bishop, from the bishop to the archbishop. And if the archbishop should fail to show justice, it must come to the lord king last, in order that by his command the controversy should be finally terminated in the court of the archbishop, so that it ought not to proceed further without the assent of the lord king.

§ 9. If a contest has arisen between a clergyman and a layman or between a layman and a clergyman, concerning any tenement which the clergymen wishes to bring into charitable tenure, but the layman into a lay fief, it shall be settled by the deliberation of a principal justice of the king, on the recognition of twelve legal men, whether the tenement pertains to charity or to a lay fief, in the presence of that justice of the king. And if the recognition shall decide that it belongs to charity, the suit will be in the ecclesiastical court, but if to a lay fief, unless both are answerable to the same bishop or baron, the suit will be in the king's court. But if both shall be answerable concerning that fief before the same bishop or baron, the suit will be in his court, provided that the one who was formerly in possession shall not lose his possession on account of the recognition which has been made until it has been decided upon through the suit.

§ 10. If any one who is of a city or a castle or a borough or a demesne manor of the lord king has been summoned by the archdeacon or the bishop for any offence for which he ought to respond to them, and is unwilling to make answer to their summons, it is fully lawful to place him under an interdict, but he ought not to be excommunicated before the principal officer of the lord king for that place agrees, in order that he may adjudge him to come to the answer. And if the officer of the king is negligent in this, he himself will be at the mercy of

the lord king, and afterward the bishop shall be able to coerce the accused man by ecclesiastical justice.

§ 11. Archbishops, bishops, and all persons of the realm, who hold from the king in chief, have their possessions from the lord king as a barony, and are responsible for them to the justices and officers of the king, and follow and perform all royal rules and customs; and just as the rest of the barons ought to be present at the judgment of the court of the lord king along with the barons, at least till the judgment reaches to loss of limbs or to death.

§ 12. When an archbishopric or bishopric or abbacy or priorate of the demesne of the king has become vacant, it ought to be in his hands and he shall take thence all its rights and products just as demesnes. And when it has come to providing for the church, the lord king ought to summon the more powerful persons of the church, and the election ought to be made in the chapel of the lord king himself, with the assent of the lord king and with the agreement of the persons of the realm whom he has called to do this. And there the person elected shall do homage and fealty to the lord king as to his liege lord, concerning his life and his limbs and his earthly honor, saving his order, before he shall be consecrated.

§ 13. If any one of the great men of the kingdom has prevented archbishop, bishop or archdeacon from exercising justice upon himself or his, the lord king ought to bring him to justice. And if by chance anyone has deprived the lord king of his right, the archbishops and bishops and archdeacons ought to bring him to justice in order that he may give satisfaction to the lord king.

§ 14. The chattels of those who are in forfeiture to the king no church or church-yard must detain against the justice of the king, because they are the king's whether they have been found within the churches or without.

§ 15. Suits concerning debts which are owed through the medium of a bond or without the medium of a bond should be in the jurisdiction of the king.

§ 16. Sons of rustics ought not to be ordained without the assent of the lord upon whose land they are known to have been born.

The acknowledgment of the aforesaid royal customs and dignities has been made by the aforesaid archbishops, and bishops, and earls, and barons, and the more noble and ancient of the realm, at Clarendon, on the fourth day before the Purification of the Blessed Mary, perpetual

Virgin, Lord Henry being there present with his father, the lord king. There are, however, many other and great customs and dignities of holy mother church and of the lord king, and of the barons of the realm, which are not contained in this writing. These are preserved to holy church and to the lord king and to his heirs and to the barons of the realm, and shall be observed inviolably forever.

7. TYPICAL CRIMINAL CASES IN THE KING'S COURTS, 1201–1214.

Selden Society Publications: Maitland; Select Pleas of the Crown, pp. 1, 14, 18, 27, 29, 75. Latin.

Denise. who was wife of Anthony, summons Nicholas Kam for the death of Anthony, her husband, as having wickedly killed her husband; and this she offers to prove against him under award of the court. And Nicholas denies it all. It is adjudged that Denise has no right of summons, because she does not claim in her accusation that she saw it. The jurors being asked say that they suspect him of it, and the whole county likewise suspects him. Let Nicholas purge himself by water, according to the assize. He has found sureties.

Hugh of Ruperes summons John of Ashby because he in the king's peace and wickedly came into his meadows and pastured his cattle on them, and this he offers, etc. And John comes and denies it all. And since it has been testified by the sheriff and by the guardians of the pleas of the crown, that he had previously summoned John for the pasturing of his meadows and for the beating of his men, and now is not willing to pursue his accusation concerning the men, but only concerning the meadows, and moreover an accusation of the pasturing of meadows does not pertain to the king's crown, it is judged that the accusation is of no effect, and therefore let Hugh be in mercy and John be declared quit. Hugh is in custody because he cannot find securities.

Hereward, the son of William, accuses Walter, the son of Hugh, of assaulting him, in the king's peace, and wounding him in the arm with a certain iron fork, and giving him another wound on the head; and this he offers to prove on his body, as the court shall approve. And Walter denies it all, on his body. And it is testified by the coroners and by the whole county that the same Hereward showed his wounds at the proper time, and has made sufficient suit. And it is therefore adjudged that a battle should be made. The securities of Walter are Peter of Gosberton church and Richard, the son of Hereward; the securities of Hereward are William, his father, and the

Prior of Pinchbeck. Let them come armed, a fortnight from St. Swithin's day, at Leicester.

Lambert, the miller, complains that Clarice, wife of Lawrence, the son of Walter, sold him beer by a false gallon, and produces testimony which report that they were present when she thus sold by that gallon, that is to say, three gallons for a penny. Clarice comes and denies that she sold by a false gallon, or that she sold by that gallon which he said was hers as being a whole gallon, but as being a half-gallon. Let her defend herself with twelve hands on the coming of the justices. She has given securities. Security for her law, William, son of Ascelin; securities of Lambert to prosecute, William Sanguinel, Richard, son of Geoffrey, Dennis, son of Lambert, and Walter the miller.

A certain Lemis is suspected by the jurors of being present when Reinild of Hemchurch was slain, and of having given aid and consent to her death. And she denies it. Therefore let her purge herself by the ordeal of iron; but as she is ill, let it be postponed until she recovers.

Walter Trenchebof was asserted to have handed to Inger of Faldingthorpe the knife with which he killed Guy Foliot, and is suspected of it. Let him purge himself by water that he did not consent to it. He has failed and is hanged.

Simon, the son of Robert, who was captured in company with thieves and was held in prison because he was under age must likewise purge himself by water. He has purged himself and abjured the realm.

8. TYPICAL RECOGNITIONS ON THE ASSIZES, IN THE KING'S COURTS, 1200–1203.

Selden Society Publications, Bailden; Select Civil Pleas, pp. 25, 51, 63, 61. Latin.

John of Kilpeck demands against the abbot of Hagman the customs and right services, that is, the fifth part of one knight, which he owes him for the free tenement which he holds from him in Beobridge. And the abbot comes and says that he does not owe that service, nor does it appertain to that tenement; and in this matter he puts himself upon the great assize of our lord the king, and asks that a recognition may be made thereof. Let it be made. Let John have a writ to summon four knights to elect twelve to make a recognition thereof on the coming of the justices.

The assize of *novel disseisin* between William Torell, plaintiff,

and the abbot of Stratford concerning a certain dike thrown down in Little Thurrock to the damage of the free tenement of William Torell in the same town is postponed till the week after St. Hilary's day, because of the recognitors; of whom some excused themselves, and some came, etc., and Hugh of Boyton and five others made default. And the abbot comes and says that a certain law was made in the time of King Henry the father, concerning the marshes, and he prays that it may be observed. Therefore the sheriff is commanded to provide such recognitors as know the law of the marsh, and who know the truth, to say whether the throwing down of that dike is to William's damage, or not.

The assize of *mort d'ancestor* between Alice, daughter of Duke, by William, her attorney, and Alan, brother of Alan, and John, son of Alan, regarding half a messuage with appurtenances in the town of St. Botolph is postponed till the fortnight after Trinity, because some of the recognitors excused themselves, and some came; and the same day is given to them. Master Roger Gernun, Robert, son of Mussa, William Res, and Hamo, son of Hereward, are attached; and let the sheriff appoint six lawful men of the town of St. Botolph who are discreet and who know the truth of the matter and none of whom is related to the aforesaid parties, to be there at the same time.

The assize of *darrein presentement* to the church of Weston, between William de Colville, petitioner, and the prior of Lewes, concerning the church of Weston, [is postponed] *sine die*, because William de Colville did not keep the appointed day, and the writ did not mention his wife, who had the inheritance. Wherefore William is in mercy, and also his pledges Roger of the Wood and John Langvillun.

Sarah Delaware complains that Geoffrey de Tichesie exacted from her more service than it had been recognized in the king's court was due to him. And Geoffrey comes and declares that there was never any plea between them in the king's court touching the services; and it was testified by the record of the justices that the plea was in the county court. Let it be again in the county court.

III. WRITS OF SUMMONS TO PARLIAMENT.

From the earliest period of the Norman rule, the greater tenants-in-chief were summoned, from time to time, by formal writs, to perform their due military service to the king or to give him their counsel in matters of government. The performance of this latter function gave rise to the more or less regular meeting of Parliament, to which the barons and prelates were still summoned by special writs. When a larger representation of the nation was desired by the king, during the thirteenth century, writs were sent to the sheriffs ordering them to send up to the Parliament representatives of the county and town communities. The following writs represent respectively a summons to the great nobles before the admission of the commons, and to each of the three estates for the "model parliament" of 1295.

1. A WRIT OF SUMMONS OF THE LORDS, SPIRITUAL AND TEMPORAL, TO A PARLIAMENT, 26 HENRY III. (1242.)

Lords' Report on the Dignity of a Peer, ii, 7. Latin.

The King to the venerable father in Christ W. archbishop of York, greeting. We command and require you, as you love us and our honor, and your own equally, and in the faith by which you are held to us, that laying aside all other business, you be with us at London, fifteen days after St. Hilary's day, to discuss with us, along with the rest of our magnates whom we have similarly caused to be convoked, our arduous affairs and those things which more specially touch our state and that of our whole kingdom; and that you in no way fail to perform this. Witness the king at Windsor, Dec. 14th.

In the same way it is written to all the bishops, abbots, earls, and barons.

2. SUMMONS OF A BISHOP TO PARLIAMENT, 1295.

Lords' Report on the Dignity of a Peer, ii, 67. Latin.

The King to the venerable father in Christ Robert, by the same grace archbishop of Canterbury, primate of all England, greeting. As a most just law, established by the careful providence of sacred princes, exhorts and decrees that what affects all, by all should be approved, so also, very evidently should common danger be met by means provided in common. You know sufficiently well, and it is now, as we believe, divulged through all regions of the world, how the king of France fraudulently and craftily deprives us of our land of Gascony, by withholding it unjustly from us. Now, however, not satisfied with the before-mentioned fraud and injustice, having gathered together for the conquest of

our kingdom a very great fleet, and an abounding multitude of warriors, with which he has made a hostile attack on our kingdom and the inhabitants of the same kingdom, he now proposes to destroy the English language altogether from the earth, if his power should correspond to the detestable proposition of the contemplated injustice, which God forbid. Because, therefore, darts seen beforehand do less injury, and your interest especially, as that of the rest of the citizens of the same realm, is concerned in this affair, we command you, strictly enjoining you in the fidelity and love in which you are bound to us, that on the Lord's day next after the feast of St. Martin, in the approaching winter, you be present in person at Westminster; citing beforehand the dean and chapter of your church, the archdeacons and all the clergy of your diocese, causing the same dean and archdeacons in their own persons, and the said chapter by one suitable proctor, and the said clergy by two, to be present along with you, having full and sufficient power from the same chapter and clergy, to consider, ordain and provide, along with us and with the rest of the prelates and principal men and other inhabitants of our kingdom, how the dangers and threatened evils of this kind are to be met. Witness the king at Wangham, the thirtieth day of September.

Identical summons were sent out to the two archbishops and eighteen bishops, and, with the omission of the last paragraph, to seventy abbots.

3. SUMMONS OF A BARON TO PARLIAMENT, 1295.

Lords' Report on the Dignity of a Peer, ii, 68.

The king to his beloved and faithful relative, Edmund, Earl of Cornwall, greeting. Because we wish to have a consultation and meeting with you and with the rest of the principal men of our kingdom, as to provision for remedies against the dangers which in these days are threatening our whole kingdom; we command you, strictly enjoining you in the fidelity and love in which you are bound to us, that on the Lord's day next after the feast of St. Martin, in the approaching winter, you be present in person at Westminster, for considering, ordaining and doing along with us and with the prelates, and the rest of the principal men and other inhabitants of our kingdom, as may be necessary for meeting dangers of this kind.

Witness the king at Canterbury, the first of October.

Similar summons were sent to seven earls and forty-one barons.

4. SUMMONS OF REPRESENTATIVES OF SHIRES AND TOWNS TO PARLIAMENT, 1295.

Lords' Report on the Dignity of a Peer, ii, 66.

The king to the sheriff of Northamptonshire. Since we intend to have a consultation and meeting with the earls, barons and other principal men of our kingdom with regard to providing remedies against the dangers which are in these days threatening the same kingdom; and on that account have commanded them to be with us on the Lord's day next after the feast of St. Martin in the approaching winter, at Westminster, to consider, ordain, and do as may be necessary for the avoidance of these dangers; we strictly require you to to cause two knights from the aforesaid county, two citizens from each city in the same county, and two burgesses from each borough, of those who are especially discreet and capable of laboring, to be elected without delay, and to cause them to come to us at the aforesaid time and place.

Moreover, the said knights are to have full and sufficient power for themselves and for the community of the aforesaid county, and the said citizens and burgesses for themselves and the communities of the aforesaid cities and boroughs separately, then and there for doing what shall then be ordained according to the common counsel in the premises; so that the aforesaid business shall not remain unfinished in any way for defect of this power. And you shall have there the names of the knights, citizens and burgesses and this writ.

Witness the king at Canterbury on the third day of October.

Identical summons were sent to the sheriffs of each county.

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This book covers the whole period of English Constitutional History to the close of the Middle Ages. It remains above all comparison the most learned, most detailed, and most moderate work on the subject. But these very qualities make it rather a work for reference than for continuous study or reading.

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This is the best single volume work covering the whole period of English Constitutional History. That portion which precedes the Norman Conquest is however distinctly inferior to the remaining part of the work, being inadequate in amount and largely incorrect in substance. It is unfortunately quite expensive, the price being $5.50

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This is a most excellent work, including the most recent investigations and conclusions in the field of English Constitutonal History in its widest extension. Its arrangement, however, being by subjects, not chronologically, makes it rather a study of the elements of the constitution from an historical standpoint, than a history of constitutional development in any proper sense, and makes it unsuited for use as a text-book on the subject.

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Although this work professes to exclude all matters of a purely constitutional nature, it necessarily includes much of the organization of jurisdiction, of the distinction of political classes in the community, and of other matters on the borderland between the government and law, and with Prof. Maitland's *Domesday and Beyond* is of the utmost interest and value on all those subjects of which it does treat.

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Translations and Reprints

from the

Original Sources of European History.

Vol. II. English Towns and Gilds. No. 1.

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I. *TOWN CUSTOMS.*

An English city or borough,[1] in the early Middle Ages, is to be looked upon, in the greater number of cases, simply as a manor or group of adjacent manors, where facilities for trade or handicraft have led to a larger and more concentrated population than could have subsisted merely on the agriculture of the rural community. In each of these towns local customs grew up, just as the "custom of the manor" existed in each village in the open country; but more highly developed, as a consequence of the closer population, mercantile occupation, and more active life of the townspeople.

Since these local customs existed only as rules traditionally observed and remembered, they were but seldom made a matter of written record. The few still existing have been preserved by peculiar cicumstances. In some forty-one cases the pecuniary relations to the king involved in the customs of the towns attracted the attention of the commissioners who made the reports for Domesday Book. Those of Chester are given in the greatest detail. The customs of Newcastle were formulated in the time of Henry II, but refer to a period at least as early as the close of the eleventh century. The "Usages of Winchester," "Ordinances of Worcester" and "Office of the Mayor of Bristol" are collections of city customs similar to those printed and translated here, and are printed in Smith's English Gilds, Early English Text Society, 1870. The last of the three is also in Ricart's Kalendar, Camden Society, 1872.

CUSTOMS OF CHESTER.

Latin: Domesday Book, I, 262, b.; and Stubbs' Select Charters, 83-95.

The city of Chester, in the time of King Edward, paid tax as being of fifty hides;[2] three and a half hides of which were outside of the city. That is, one and a half hides were beyond the bridge, and two hides in Newton and Redcliff, and in the bishop's borough; these paid tax with the city.

In the time of King Edward, there were in the city 431 houses paying tax. And besides these the bishop had 56 tax-paying houses. Then the city paid ten and a half marks[3] of silver; two parts belonged to the king and the third to the earl. And the following laws existed there:

When peace had been granted by the hand of the king, or by his letter or through his bailiff, if any one broke it, the king had 100 shillings for it. But if the same peace of the king, at his order had been granted by the earl, if it was broken, of the 100 shillings which were given therefor, the earl had the third penny. If, however, the

[1] There seems to be no consistent distinction between cities and boroughs in Domesday and earlier use: later it was customary to call the seat of a bishop a city and all other considerable towns boroughs. [2] A hide was a unit of taxation or of measurement, equalling in the latter case approximately 120 acres. It is here evidently the former. [3] The mark of silver was equal to 13s. 4d.; of gold, £6.

same peace was infringed when granted by the reeve of the king or the officer of the earl, it was compounded for by forty shillings, and the third penny belonged to the earl.

If any free man of the king broke the peace which had been granted and killed a man in his house, all his land and money came to the king, and he himself became an outlaw. The earl had the same concerning his man making this forfeiture. No one, however, except the king, was able to grant peace again to an outlaw.

He who shed blood between Monday morning and the ninth hour of Saturday compounded for it with ten shillings. From the ninth hour of Saturday to Monday morning bloodshed was compounded for with twenty shillings. Similarly any one paid twenty shillings who did this in the twelve days after Christmas, on the day of the Purification of the Blessed Mary, on the first day of Easter, the first day of Pentecost, Ascension Day, on the Assumption or Nativity of the Blessed Mary and on the day of All Saints.

He who killed a man on these holy days compounded for it with £4; but on other days with forty shillings. Similarly he who committed burglary or assault, on those feast days or on Sunday £4. On other days forty shillings.

Any one setting prisoners free[1] in the city gave ten shillings. But if the reeve of the king or of the earl committed this offence he compounded for it with twenty shillings.

He who committed theft or robbery or exercised violence upon a woman in a house compounded for each of these with forty shillings.

If a widow had illegitimate intercourse with any one she compounded for it with twenty shillings; a girl, however, with ten shillings for a similar cause.

He who in the city seized upon the land of another and was not able to prove it to be his, was fined forty shillings. Similarly also he who made a claim upon it, if he was not able to prove it to be his.

He who wished to make relief of his own land or that of his relative gave ten shillings.

If he was not able or did not wish to do this the reeve took his land into the hand of the king.

He who did not pay the tax at the period at which he owed it compounded for it with with ten shillings.

[1] The word *hangewitham* thus translated, has also been considered to mean the offence of hanging a person without warrant of law. Ducange.

If fire burned the city, he from whose house it started compounded for it with three oras[1] of pennies, and gave to his next neighbor two shillings. Of all these forfeitures two parts belonged to the king and the third to the earl.

If without the license of the king ships came to the port of the city or departed from the port, from each man who was on the ships the king and the earl had forty shillings. If against the peace of the king and after his prohibition the ship approached, as well it as the men, with all things which were upon it, did the king and the earl have.

If, however, with the peace and license of the king it had come, those who were in it sold what they had in peace; but when it went away, four pence from each lading did the king and the earl have. If to those having martens' skins the reeve of the king gave orders that to no one should they sell until they had first brought them and shown them to him, he who did not observe this compounded for it by paying forty shillings.

A man or a woman making false measure in the city, and being arrested, compounded for it with four shillings. Similarly a person making bad ale, was either placed in the ducking stool or gave four shillings to the reeve. This forfeiture the officer of the king and of the earl received in the city, in whosesoever land it had been, either of the bishop or of another man. Similarly also, if any one held the toll back beyond three nights, he compounded for it with forty shillings.

In the time of King Edward there were in this city seven moneyers,[2] who gave seven pounds to the king and the earl, besides the ferm,[3] when the money was turned over.

There were at that time twelve judges of the city, and these were from the men of the king, and of the bishop, and of the earl; if any one of these remained away from the hundred court on the day in which it sat, without a clear excuse, he compounded for it with ten shillings, between the king and the earl.

For repairing the city wall and the bridge the reeve summoned one man to come from each hide of the county. If the man of any one did not come his lord compounded for it to the king and the earl with forty shillings. This forfeiture was in addition to the ferm.

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[1] An ora is a number of pennies, varying in different times and places, here possibly sixteen or twenty.

[2] The moneyers were men who had the contract for coining money, paying a fee for the privilege of reserving to themselves the seigniorage.

[3] A ferm was a fixed amount paid as a lump sum in place of a number of smaller or more irregular payments.

This city paid at that time of ferm £45 and three bundles of marten's skins. The third part belonged to the earl, and two to the king.

When Earl Hugh received it, it was worth only £30, for it was much wasted. There were 205 fewer houses than there had been in the time of King Edward. Now there are just as many there as he found.

Murdret held this city from the earl for £70 and one mark of gold. He had at ferm for £50 and one mark of gold all the pleas of the earl in the county and in the hundreds, with the exception of Inglefeld.

The land on which the temple of St. Peter stands, which Robert of Rodelend claimed for demesne land, as the county has proved, never pertained to the manor, outside the city, but pertains to the borough ; and it has always been in the custom of the king and the earl, like that of other burgesses.

THE CUSTOMS OF NEWCASTLE-UPON-TYNE.

Latin : Acts of Parliament of Scotland, I, 33-34 ; and Stubbs' Select Charters, 107-108.

These are the laws and customs which the burgesses of Newcastle-upon-Tyne had in the time of Henry, king of England, and ought to have:

Burgesses may make seizure for debt from those dwelling outside, within their market place and without, and within their house and without, and within their borough and without, without the license of the reeve, unless courts are held in the borough, and unless they are in the army or on guard at a castle.

From a burgess a burgess is not allowed to make seizure for debt without the license of the reeve.

If a burgess has agreed upon anything in the borough with those dwelling outside, the debtor, if he acknowledges it, must pay the debt himself, or he must grant right in the borough.

Suits which arise in the borough are to be held and finished there, except those which belong to the king's crown.

If any burgess is summoned on any prosecution, he shall not plead outside of the borough except for want of a court. Nor must he respond without day and term, unless he shall have first fallen into an absurd defense ; except with regard to things which pertain to the crown.

If a ship has put in at Tynemouth and wishes to depart, it is allowed to the burgesses to buy whatever they wish.

If a suit arises between a burgess and a merchant, it shall be settled before the third tide.

Whatever merchandise a vessel has brought by sea ought to be carried to land, except salt and brine, which ought to be sold on the ship.

If anyone has held land in burgage for a year and a day justly and without prosecution, he need not make defense against a claimant, unless the claimant has been outside the realm of England, or in the case where he is a boy having no power to speak.

If a burgess has a son in his house, at his table, the son shall have the same liberty as his father.

If a villain comes to stay in a borough, and there for a year and a day stays as a burgess in the borough, let him remain altogether, unless it has been said beforehand by himself or by his lord that he is to remain for a certain time.

If any burgess makes an accusation concerning any matter, he cannot wage battle against a burgess, but let the burgess defend himself by law, unless it is concerning treason, when he ought to defend himself by battle. Nor can a burgess wage battle against a villain, unless he has first departed from his burgage.

No merchant, unless he is a burgess, may buy any wool, hides, or other merchandise, outside of the town, nor inside of the borough except from burgesses.

If forfeiture happens to a burgess, he shall give six *oras* to the reeve.

In the borough there is no merchet, nor heriot, nor blood fine, nor *stengesdint.*

Each burgess may have his oven and hand-mill if he wishes, saving the king's right to the oven.

If a woman is in transgression concerning bread or concerning ale, no one ought to intermeddle except the reeve. If she shall have transgressed a second time, let her be whipped for her transgression. If for a third time she shall have transgressed, let justice be done upon her.

No one except a burgess may buy clothes for dyeing, nor make, nor shear them.

A burgess may give his land, or sell it, and go whither he wishes, freely and quietly, unless he is engaged in a suit.

II. *TOWN CHARTERS.*

During the twelfth and thirteenth centuries many of the cities and boroughs obtained their first charters. These were documents issued and sealed by the king, or by the lord on whose demesne the town had grown up, giving legal recognition to a part or the whole of the body of local customs. In no case was the whole body of customs recited in the charter; and in most cases probably no new rights were granted to the towns by the charters; but it was of the greatest value to them to have their more important customary rights defined, legalized and put in a form which could be appealed to in case of subsequent dispute. Moreover, the first grant obtained by any town served as a precedent in obtaining, at favorable opportunities thereafter, new charters extending its powers and privileges. The charter of Southampton, printed below, for instance, was the first of thirty-one such grants to that town between the twelfth century and the seventeenth; varying in character from mere renewals to considerable additions to the city immunities. Types of three classes of municipal charters are given below; those granted by the king, those granted by a secular lord to a town on his demesne, and those granted by a prelate. A vast number of charters granted to towns are printed in Rymer's *Fœdera;* Madox' *Firma Burgi*, Gross' Gild Merchant, and in local histories.

CHARTER OF HENRY II. TO THE CITY OF LINCOLN.

Latin: Rymer's *Fœdera*, i. 40; and Stubbs' Select Charters, 158-9.

Henry, by the grace of God, king of England, duke of Normandy and Aquitaine, count of Anjou, to the bishop of Lincoln, justiciars, sheriffs, barons, officers and all his faithful, French and English, of Lincoln, greeting. Know that I have conceded to my citizens of Lincoln all their liberties and customs and laws, which they had in the time of Edward and William and Henry, kings of England; and their gild merchant of the men of the city and of other merchants of the county, just as they had it in the time of our aforesaid predecessors, kings of England, best and most freely. And all men who dwell within the four divisions of the city and attend the market are to be at the gilds and customs and assizes of the city as they have been best in the time of Edward, William and Henry, kings of England. I grant to them moreover, that if anyone shall buy any land within the city, of the burgage of Lincoln, and shall have held it for a year and a day without any claim, and he who has bought it is able to show that the claimant has been in the land of England within the year and has not claimed it, for the future as before he shall hold it well and in peace, and without any prosecution. I confirm also to them, that if anyone shall have remained in the city of Lincoln for a year and a day without claim on the part of any claimant, and has given the customs, and is able to show by the laws and customs of the city that the claimant has been in existence in

the land of England and has not made a claim against him, for the future as in the past he shall remain in peace, in my city of Lincoln, as my citizen. Witnesses, E., bishop of Lisieux; Thomas, chancellor; H., constable; Henry of Essex, constable. At Nottingham.

CHARTER OF HENRY II. TO WALLINGFORD.

Latin: Rymer's *Fœdera*, i, 471: and Gross' Gild Merchant, II, 244-5.

Henry, by the grace of God, King of England, Duke of Normandy and Aquitaine, and Count of Anjou, ... I command you that my burgesses of Wallingford shall have my secure peace through my whole land of England and Normandy, wherever they may be. And know that I have given and conceded to them forever all their liberties and laws and customs well and honorably, just as they had them best and most honorably in the time of King Edward, and in the time of my great grandfather King William, and of his son, the second King William, and in the time of King Henry, my grandfather; that is to say, that they should have freely the gild merchant with all its customs and laws, so that neither my bailiff nor any justice of mine should meddle with their gild; but only their own alderman and officer. And if my officers or any justice shall have brought suit against them in any plea or for any occasion or shall have wished to lead them into a suit, I forbid it, and require that they should not make defense in any manner, except in their own proper portmote. And if the reeve himself shall implead them on any occasion without an accuser, they shall not respond, and if on account of any transgression, or by a right judgment any one of them shall have made forfeiture by a right consideration of the burgesses, to the reeve shall he pay it. I forbid, moreover, and require that there shall be no market in Crowmarsh, nor any merchant, unless he is in the gild of the merchants; and if anyone goes out from the borough of Wallingford and lives from the merchandise of the same Wallingford, I command that he should make the right gild of the merchants with the same burgesses, wherever he may be, within the borough or without. Know moreover, that I have given and conceded forever to all the men of Wallingford full quittance from my yearly rent, which they were accustomed to pay from the borough of Wallingford; that is to say, from that which pertains to me in the borough. All these laws and customs and liberties and quittances I give to them and concede forever, and all others which they are able to show that their ancestors had, freely, quietly, and honorably, just as my

citizens of Winchester ever had them at the best; and this on account of the great service and labor which they sustained for me in the acquisition of my hereditary right in England. I concede to them, moreover, that wherever they shall go in their journeys as merchants, through my whole land of England and Normandy, Aquitaine and Anjou, "by water and by strand, by wood and by land," they shall be free from toll and passage fees, and from all customs and exactions; nor are they to be troubled in this respect by any one, under a penalty of £10. I forbid, moreover, and require under the same penalty, that the reeve of Wallingford shall not make any fine of scotale or New Year's gift from any one, and that he shall not establish any custom in Wallingford which shall injure the burgesses of the town. Of this grant and concession, the witnesses are Theobald, archbishop of Canterbury and others. Given at Oxford, the first day before the Ides of January.

CHARTER OF HENRY II. TO SOUTHAMPTON.

Latin: Davies' History of Southampton, 152; Gross' Gild Merchant, II, 213.

Henry, king of England, duke of Normandy and Aquitaine, and count of Anjou, to his reeves and ministers of Hampton, greeting: I ordain that my men of Hampton shall have and hold their gild and all their liberties and customs, by land and by sea, in as good, peaceable, just, free, quiet, and honorable a manner as they had the same, best, most freely and quietly in the time of King Henry, my grandfather; and let no one upon this do them any injury or insult. Witness, Richard de Humet, constable; Jocelyn de Baliol, at Winchester.

CHARTER OF RALPH, EARL OF CHESTER, TO THAT CITY, BETWEEN A. D., 1190 AND 1211.

Latin: Report of Historical Mss. Comm. 1881, 356-7; and Gross' Gild Merchant, II, 140.

Ralph, earl of Chester, to his constable and steward, and to all his barons and bailiffs, and to all his men, French and English, as well to come as at present, greeting. Let it be known to all of you that I have given and conceded, and by this my present charter confirmed to all my citizens of Chester their gild merchant with all liberties and free customs which they have had in the aforesaid gild, best, most freely and most peacefully in the times of my predecessors. And I forbid under forfeiture to me of £10 that any one shall disturb them in it. With these witnesses, etc.

CHARTER OF JOHN, EARL OF CHESTER, BETWEEN 1217 AND 1277.

Latin: Report of Historical Mss. Comm. 1881, 356-7, and Gross' Gild Merchant II, 140.

Know that I have conceded and by this my present charter confirmed to all my citizens of Chester that no merchant should buy or sell any kind of merchandise which has come to the city of Chester by sea or by land, except these my citizens of Chester themselves and their heirs, or in accordance with their will; except in the established fairs, that is on St. John the Baptist's day and at the feast of St. Michael. . . . . Likewise, I have conceded and by this my present charter confirmed to my said citizens of Chester, to have and to hold their gild merchant, as freely, quietly and honorably as they held it in the time of my uncle, lord Ralph, earl of Chester and Lincoln.

CHARTER OF THURSTAN, ARCHBISHOP OF YORK, TO BEVERLY, BETWEEN 1100 AND 1135.

Latin: Rymer's *Fœdera*, i, 10, and Stubbs' Select Charters, 105-6.

Thurstan, by the grace of God, archbishop of York, to all the faithful in Christ, as well present as to come, greeting and God's benediction and his own. Let it be known to you that I have given and conceded, and by the advice of the chapter of York and of Beverly and by the advice of my barons have confirmed by my charter to the men of Beverly all their liberties with the same laws which those of York have in their city. Moreover let it not be hid from you that lord Henry our king has conceded to us the power of doing this of his own good will, and by his charter has confirmed our statutes and our laws according to the form of the laws of the burgesses of York, saving the dignity and honor of God and Saint John, and of us and of the canons, in order that he might thus increase the benefactions of his predecessors, and promote them by all these free customs.

I will that my burgesses of Beverly shall have their hanse house, which I give to them and concede in order that they may there determine upon their statutes to the honor of God and of St. John, and of the canons, and to the advantage of the whole body of citizens, being enfranchised by the same law as those of York in their hanse house. I give up to them, moreover, their toll forever for eighteen marks a year; besides in those feasts in which toll belongs to us and to the canons, that is to say, in the feast of St. John the Confessor, in May, in the feast of the translation of St. John, and on the day of the birth of St.

John the Baptist; and on these festivals I have made all the burgesses of Beverly free and quit from all toll. By the testimony of this charter, moreover, I have conceded to the same burgesses as free entrance and departure within and without the town, in plain and wood and marsh, in roads and byways, and in other suitable places, except in meadows and grainfields, as any one can ever concede and confirm them most freely and broadly; and know that they are as free and quit from all toll through the whole of Yorkshire, as those of York are. And I will that whosoever opposes this may be accursed, as the custom of the church of St. John asserts and as it has been decreed in the church of St. John.

These are witnesses: Geoffrey Murdoc, Nigel Fossard, Alan de Percy, Walter Spec, Eustace the son of John, Thomas the reeve, Thurstan, archdeacon; Herbert, chamberlain; William the son of Toole; William of Bath; in the presence of the whole household of the archbishop, clerical and lay, in York.

III. *GILD MERCHANT DOCUMENTS.*

An almost invariable provision in the early town charters was the privilege of possessing a gild merchant, or hanse house, as it was called in the charter of Beverly. This universality of the gild merchant indicates its close connection with the municipal community itself, as well as the prevailing commercial character of the latter. The existence of the gild merchant has been definitely proved in 102 towns and there is little reason to doubt that it existed in practically all the others. The gild merchant therefore was substantially the embodiment of the trading monopoly of the chartered city or borough. Its principal characteristics are exemplified in the subjoined documents. The difficult questions of its origin as an institution, its connection with the municipal government, its relation to the craft gilds, and its later decadence or disappearance, are fully discussed in the standard work on the subject: Gross, The Gild Merchant. The ordinances of the gilds of Southampton and Lynn Regis are almost the only remaining bodies of statutes. The former document belongs to the fourteenth century, but the provisions are evidently of very different dates. The first eleven seem to be the oldest, and perhaps with others extend back to a far earlier period than 1300. The gild merchant of Lynn Regis is mentioned as early as 1205, in a charter granted by King John, and remained in existence until November 4, 1547. It was clearly distinct from the town government, though connected with it at many points. It had a large membership: its property brought in at one time an income of some £400 a year; it possessed a gild hall which still exists, and sustained in 1389, thirteen chaplains, "daily and yearly to pray as well for the king, his ancestors, and for the peace and welfare of his kingdom, as for the souls of all the aldermen, brethren, and benefactors of the said gild; also for the souls of all the faithful deceased." Six of these chaplains officiated in the church of St. Margaret, four in the chapel of St. Nicholas, and three in the chapel of St. James, all in Lynn. In addition to its religious activity, the gild contributed largely both by money and by administration to the charities, educational work, and public improvements of the city.

ORDINANCES OF THE GILD MERCHANT OF SOUTHAMPTON.

French: Gross' Gild Merchant, II, 214, etc.; and English: Davies' History of Southampton, pp. 139, etc.

§ 1. [1]In the first place, there shall be elected from the gild merchant, and established, an alderman, a steward, a chaplain, four skevins, and an usher. And it is to be known that whosoever shall be alderman shall receive from each one entering into the gild fourpence, the steward, twopence; the chaplain, twopence; and the usher, one penny. And the gild shall meet twice a year: that is to say, on the Sunday next after St. John the Baptist's day, and on the Sunday next after St. Mary's day.

§ 2. And when the gild shall be sitting no one of the gild is to bring in any stranger, except when required by the alderman or steward. And the alderman shall have a sergeant to serve before him, the steward another sergeant, and the two skevins a sergeant, and the other two skevins a sergeant, and the chaplain shall have his clerk.

§ 3. And when the gild shall sit, the alderman is to have, each night, so long as the gild sits, two gallons of wine and two candles, and the steward the same; and the four skevins and the chaplain, each of them one gallon of wine and one candle, and the usher one gallon of wine.

§ 4. And when the gild shall sit, the lepers of La Madeleine shall have of the alms of the gild, two sesters[2] of ale, and the sick of God's House and of St. Julian shall have two sesters of ale. And the Friars Minors shall have two sesters of ale and one sester of wine. And four sesters of ale shall be given to the poor wherever the gild shall meet.

§ 5. And when the gild is sitting, no one who is of the gild shall go outside of the town for any business, without the permission of the steward. And if any one does so, let him be fined two shillings, and pay them.

§ 6. And when the gild sits, and any gildsman is outside of the city so that he does not know when it will happen, he shall have a gallon of wine, if his servants come to get it. And if a gildsman is ill and is in the city, wine shall be sent to him, two loaves of bread and a gallon of wine and a dish from the kitchen; and two approved men of the gild shall go to visit him and look after his condition.

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[1] In the original a rubric is introduced at the beginning of each paragraph, describing its subject, usually in the same terms as the body of the paragraph. They are omitted here on account of their want of especial significance.

[2] Sester, or sextary, apparently equals four gallons: Stubbs; and see § 4 on page 17 of this pamphlet.

§ 7. And when a gildsman dies, all those who are of the gild and are in the city shall attend the service of the dead, and gildsmen shall bear the body and bring it to the place of burial. And whoever will not do this shall pay according to his oath, two pence, to be given to the poor. And those of the ward where the dead man shall be ought to find a man to watch over the body the night that the dead shall lie in his house. And so long as the service of the dead shall last, that is to say the vigil and the mass, there ought to burn four candles of the gild, each candle of two pounds weight or more, until the body is buried. And these four candles shall remain in the keeping of the steward of the gild.

§ 8. The steward ought to keep the rolls and the treasure of the gild under the seal of the alderman of the gild.

§ 9. And when a gildsman dies, his eldest son or his next heir shall have the seat of his father, or of his uncle, if his father was not a gildsman, and of no other one; and he shall give nothing for his seat. No husband can have a seat in the gild by right of his wife, nor demand a seat by right of his wife's ancestors.

§ 10. And no one has the right or power to sell or give his seat in the gild to any man; and the son of a gildsman, other than his eldest son, shall enter into the gild on payment of ten shillings, and he shall take the oath of the gild.

§ 11. And if a gildsman shall be imprisoned in England in time of peace, the alderman with the steward and with one of the skevins shall go at the cost of the gild, to procure the deliverance of the one who is in prison.

§ 12. And if any gildsman strikes another with his fist; and is convicted thereof, he shall lose the gild until he shall have bought it back for ten shillings, and taken the oath of the gild again like a new member. And if a gildsman strikes another with a stick, or a knife, or any other weapon, whatever it may be, he shall lose the gild and the franchise, and shall be held as a stranger until he shall have been reconciled to the good men of the gild and has made recompense to the one whom he has injured, and has paid a fine to the gild of twenty shillings; and this shall not be remitted.

§ 13. If any one does an injury, who is not of the gild, and is of the franchise or strikes a gildsman and is reasonably convicted he shall lose his franchise and go to prison for a day and a night.

§ 14. And if any stranger or any other who is not of the gild

nor of the franchise, strikes a gildsman, and is reasonably convicted thereof, let him be in prison two days and two nights, unless the injury is such that he should be more severely punished.

§ 15. And if a gildsman reviles or slanders another gildsman, and a complaint of it comes to the alderman, and if he is reasonably convicted thereof, he shall pay two shillings fine to the gild, and if he is not able to pay he shall lose the gild.

§ 16. And if anyone who is of the franchise, speaks evil of a gildsman, and is convicted of this before the alderman, he shall pay five shillings for a fine or lose the franchise.

§ 17. And no one shall come to the council of the gild if he is not a gildsman.

§ 18. And if anyone of the gild forfeits the gild by any act or injury, and is excluded by the alderman and the steward and the skevins and the twelve sworn men of the city; and he wishes to have the gild again, he shall do all things anew just as one who has never been of the gild, and shall make amends for his injury according to the discretion of the alderman and the aforesaid approved men. And if anyone of the gild or of the franchise brings a suit against another outside of the city, by a writ or without a writ, he shall lose the gild and the franchise if he is convicted of it.

§ 19. And no one of the city of Southampton shall buy anything to sell again in the same city, unless he is of the gild merchant or of the franchise. And if anyone shall do so and is convicted of it, all which he has so bought shall be forfeited to the king; and no one shall be quit of custom unless he proves that he is in the gild or in the franchise, and this from year to year.

§ 20. And no one shall buy honey, fat, salt herrings, or any kind of oil, or millstones, or fresh hides, or any kind of fresh skins, unless he is a gildsman: nor keep a tavern for wine, nor sell cloth at retail, except in market or fair days; nor keep grain in his granary beyond five quarters, to sell at retail, if he is not a gildsman; and whoever shall do this and be convicted, shall forfeit all to the king.

§ 21. No one of the gild ought to be partner or joint dealer in any of the kinds of merchandise before mentioned with anyone who is not of the gild, by any manner of coverture, or art, or contrivance, or collusion, or in any other manner. And whosoever shall do this and be convicted, the goods in such manner bought shall be forfeited to the king, and the gildsman shall lose the gild.

§ 22. If any gildsman falls into poverty and has not the wherewithal to live, and is not able to work or to provide for himself, he shall have one mark from the gild to relieve his condition when the gild shall sit. No one of the gild nor of the franchise shall avow another's goods for his by which the custom of the city shall be injured. And if any one does so and is convicted, he shall lose the gild and the franchise; and the merchandise so avowed shall be forfeited to the king.

§ 23. And no private man nor stranger shall bargain for or buy any kind of merchandise coming into the city before a burgess of the gild merchant, so long as the gildsman is present and wishes to bargain for and buy this merchandise; and if anyone does so and is convicted, that which he buys shall be forfeited to the king.

§ 24. And anyone who is of the gild merchant shall share in all merchandise which another gildsman shall buy or any other person, whosoever he is, if he comes and demands part and is there where the merchandise is bought, and also if he gives satisfaction to the seller and gives security for his part. But no one who is not a gildsman is able or ought to share with a gildsman, without the will of the gildsman.

§ 25. And if any gildsman or other of the city refuse a part to the gildsman in the manner above said, he shall not buy or sell in that year in the town, except his victuals.

§ 26. And if any merchant of the town buys wine or grain so that all the risk shall be on the buyer, he shall not pay custom for this merchandise. And if any risk is upon the seller, he shall pay.

§ 27. It is provided that the chief alderman of the town, or the bailiffs and the twelve sworn men, shall give attention to the merchants as well strangers as private men, as often as it shall be required, to see that they have sufficient security for their debts, and recognisance from their debtors; and the day of this shall be enrolled before them, so that if that day is not kept, on proof by the creditor, the debtor should be then distrained according to the recognisance which he has made, in lands and chattels, to give satisfaction according to the usage of the town, without any manner of pleading, so that the men of the town should not have damage by the default of payment of the debtors aforesaid.

§ 28. And if any gildsman for any debt which he may owe, will not suffer himself to be distrained, or when he has been distrained, shall break through, or make removal or break the king's lock, and be convicted thereof, he shall lose his gildship until he has bought it again for twenty shillings, and this each time that he offends in such manner.

And he shall be none the less distrained until he has made satisfaction for the debt he owes; and if he will not submit to justice as aforesaid and be thereof convicted, he shall go to prison for a day and a night like one who is against the peace; and if he will not submit to justice let the matter be laid before the king and his council in manner aforesaid.

§ 29. And the chief alderman, and the twelve sworn men, or the bailiffs, each month, or at least four times a year shall see that the assize of bread and ale be well kept in all points according to the price of corn.[1]

§ 32. Every year, on the morrow of St. Michael, shall be elected by the whole community of the town, assembled in a place provided, to consider the estate and treat of the common business of the town—then shall be elected by the whole community, twelve discreet men to execute the king's commands, together with the bailiffs, and to keep the peace and protect the franchise, and to do and keep justice to all persons, as well poor as rich, natives or strangers, all that year; and to this they shall be sworn in the form provided. And these twelve discreet men shall choose the same day two discreet men from among themselves and the other profitable and wise men to be bailiffs for the ensuing year, who shall take care that the customs shall be well paid; and they shall receive their jurisdiction the day after Michaelmas, as has been customary. And this shall be done from year to year, so that the bailiffs shall be renewed every year, and the twelve aforesaid, if there is occasion. The same shall be done as to clerk and sergeants of the city, in making and removing.

§ 35. The common chest shall be in the house of the chief alderman or of the steward, and the three keys of it shall be lodged with three discreet men of the aforesaid twelve sworn men, or with three of the skevins, who shall loyally take care of the common seal, and the charters and the treasure of the town, and the standards, and other muniments of the town; and no letter shall be sealed with the common seal, nor any charter taken out of the common-chest but in the presence of six or twelve sworn men, and of the alderman or steward; and nobody shall sell by any kind of measure or weight that is not sealed, under forfeiture of two shillings.

§ 63. No one shall go out to meet a ship bringing wine or other merchandise coming to the town, in order to buy anything, before the

[1]The remaining 48 paragraghs, with the exception of § 32, § 35 and § 63, are of comparatively little significance as explanatory of the ordinary gild merchant.

ship be arrived and come to anchor for unlading; and if any one does so and is convicted, the merchandise which he shall have bought shall be forfeited to the king.

ORDINANCE OF THE GILD MERCHANT OF THE HOLY TRINITY OF LYNN REGIS.

English: Gross' Gild Merchant, II, 160; and Richard's History of Lynn, 452–458.

§ 1. If any stranger is willing to enter into the fraternity, he ought to pledge into the hands of the alderman 100s. and the aforesaid dues of the house. That is to say, to the alderman 4d. to the clerk 2d. to the dean 2d. and afterward out of the 100s. pledged with the alderman and his brethren . . . . . [1], and shall immediately give one sextary of wine, that is 10d.

§ 2. If any brother has a son, or sons, legitimate, who are willing to enter into the said fraternity, each one ought to pay for his entrance 4s. the aforesaid dues being excepted.

§ 3. Whoever will enter into the said fraternity, ought on the first day of his admission to wait and serve before the alderman and the brethren honorably, in neat clothes and a coronet of gold or silver.

§ 4. The alderman to have on the day of Pentecost one sextary of wine, and the dean half a sextary, the clerk half and each of the skevins, the same day, half a sextary, and every day after, as long as the drinking shall continue, the alderman shall have half a sextary, the dean, clerk and each of the skevins one gallon, and each of the attendants half a gallon, at evening.

§ 5. If any of the brethren shall disclose to any stranger the councils of the said gild, to their detriment without the assent of the alderman and his brethren, he shall forfeit the sum of 32d.

§ 6. If any of the brethren shall fall into poverty or misery, all the brethren are to assist him by common consent out of the chattels of the house or fraternity, or of their proper own.

§ 7. If any brother shall be impleaded, either within Lynn or without, the brethren there present ought to assist him in their council, if they are called, to stand with him and counsel him without any costs; and if they do not they are to forfeit 32d.

§ 8. None of the brethren is to come into the gild before the alderman and his brethren with his cap or hood on, or barefoot, or in any rustic manner; if he does he is to be amerced 4d.

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[1] Illegible in the manuscript.

§ 9. If any one should sleep at the gild, either at the general meeting or at their feasts and drinking, he is to forfeit 4d.

§ 10. If any one turns him rudely to his brother, or calls him by any rude name, he is to be amerced 4d.

§ 11. If any is called and cited at a prime[1] and does not come before the issue of the first consult, he is to pay 1d. by order of the dean; and if he refuses and sits down he is to be amerced 4d.

§ 12. If any one should be cited to the prime, and shall be found in the town or shall come late to the drinking, and the dean shall say to him to be there at the next prime, and he does not come before they begin to take judgments of defaults, he shall either make some reasonable excuse, or pay 12d., and if he comes before the faults are adjudged, and shall depart without leave he shall pay 12d.

§ 13. If any one of this house shall buy anything and a brother shall come in unexpectedly before the agreement, or at it, he ought to be a partner with him that buys, and if the buyer refuses it, he is to be amerced half a mark.

§ 14. If any servant of the brethren comes at the drinking, or the prime, he is to lay down his cap and cloak, and give it to the janitor to keep, whilst he enters and speaks to his master, and then he is to depart forthwith ; if it is at the drinking, let him drink once or twice, provided he does not sit, and then he is to depart, and if he does not his master is to be amerced.

§ 15. If any one refuse to obey the precept of the alderman or dean, for the honor and profit of the house, he is to be amerced 12s.

§ 16. If any poor brother shall die, the alderman and brethren shall see that his body be honorably buried, of the goods or chattels of the house, or out of alms, if he has not the wherewith to bury himself.

§ 17. If the alderman shall die, none belonging to him, neither son nor any other, can act in anything as alderman, but the brethren may choose a new alderman, whom they please.

§ 18. If any brother shall die, the dean is to summon all the brethren to make their offerings for the soul of the deceased; and if anyone is absent he is to give ½d. at the next prime following, for the soul of the defunct, and the dean is to have 4d. of the alms collected, for the citing of the brethren.

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[1]Principal or regular meeting.

§ 19. If any brother, or alderman, shall act contrary to the ordinances of this house, he is either to forfeit his brotherhood, or pay half a mark for the good of the house.

§ 20. No one shall intrude himself while the drinking continues.

§ 21. If any brother shall offend another brother, in word or deed, he shall make no complaint but to the alderman first, and the mayor; if he does not he is to be amerced half a mark.

§ 22. If the skevins shall merchandize with the chattels of the house, no brother shall have any part therein, but the whole profit shall go to the use of the gild.

§ 23. The skevins are to swear, when they receive the chattels of the house, that they will employ the same faithfully to the good of the gild, and will fully account and answer for the profit.

Selections from the USAGES AND CUSTOMS OF THE GILD OF THE HOLY TRINITY OF LYNN.

If any of the aforesaid brethren shall die in the said town or elsewhere, as soon as knowledge thereof shall come to the alderman, the said alderman shall order solemn mass to be celebrated for him, at which every brother of the said gild that is in town shall make his offering; and further, the alderman shall cause every chaplain of the said gild, immediately on the death of any brother, to say thirty masses for the deceased.

The alderman and skevins of the said gild are by duty obliged to visit four times a year all the infirm, all that are in want, need or poverty, and to minister to and relieve all such, out of the alms of the said gild.

If any brother shall become poor and needy, he shall be supported in food and clothing, according to his exigency, out of the profits of the lands and tenements, goods and chattels of the said gild.

If anyone has a desire and is willing for the honor of the Holy Trinity, to be received into the said gild, that he may be partaker of the alms and benefactions thereof, he shall give to the said gild a certain sum of money to the maintenance of the said alms and benefactions, according to what shall be agreed upon by the alderman and brethren thereof.

No born serf or one of such like condition, nor any apprentice can be received, and if any one of such like condition should be received into the said gild, the alderman and his brethren not knowing it, when

it is truly and lawfully proved, such a one shall lose the benefit of the gild.

No one until he arrive at the age of twenty-one years, and is of honest fame and condition, can be received into the said gild.

It was ordained on Wednesday, in the week of Pentecost, in the seventh year of Edward III, (1334), that the brethren should keep a general morwespeche three times a year, to wit; on Friday in Whitsun-week, on Friday after the exaltation of the Holy Cross, and on Friday in the first week of Lent.

On Friday in the week of Pentecost, in the 23d year of Edward III. (1349), it was provided by common assent forever that no brother should buy or sell any millstones or marble stones, brought to Lynn to be sold, as long as the skevins of this house would buy them for the profit of the gild and pay for them to the full; and if any one brother should act contrary hereto, he should forever be deprived of the society.

On Friday next after the feast of the exaltation of the Holy Cross, in the 31st year of Edward III, (1357), Jeffrey Drew, then being alderman, it was unanimously agreed by the alderman and his brethren, that as by the grant of the king in his charter, the borough of Bishop's Lynn had this liberty, that the burgesses of the same in all fairs through the kingdom of England were free, and enjoyed that freedom; when, therefore, anyone of the said burgesses or brethren should go to the fair at Stourbridge, or where any such like fair is held, and has taken his place by the consent of any of the bailiffs of those places, and marked it out by stakes or pins, by wood or stone; if any other burgess of Lynn, or brother, either by presents or favors, should deprive of or expel the aforesaid burgess or brother from his place so taken as aforesaid, he is to be looked upon and esteemed as a transgressor of the aforesaid liberty, and to be fined 40s., so that the person so deprived and expelled may have 20s. of it; and if the transgressor shall happen to be a brother of the said gild, he shall be obliged by the alderman to pay 20s. for the benefit of the said gild; and if the transgressor shall be a burgess, and not a brother of the gild, he shall be obliged to pay 20s. by the mayor of the town, for the benefit of the commonalty of the said town.

IV. *CRAFT GILD DOCUMENTS.*

The earliest mention of an organization made up of the members of some one industry in a town, is to be found in the record of payments from the weavers' gilds, in the exchequer roll of A. D. 1130, printed below. These craft gilds, later, especially in the fourteenth and fifteenth centuries, became numerous, and in many cases wealthy and influential. Their growth corresponds to the development of

handicrafts in the towns, as the earlier organizations corresponded to trading. Industries were subdivided to the most minute degree of distinction of occupation for purposes of organization, some cities posessing fifty or more craft gilds. The various branches of trade were similarly subdivided and organized. Ultimately these manufacturing, trading and other industrial organizations quite superseded the gilds merchant. The relations of the craft gilds and other fraternities to the town governments varied from entire subordination, as in the earlier gilds in London, to a large measure of independent jurisdiction, based in many cases, as in that of the tailors of Exeter, printed below, on a charter obtained directly from the crown. In addition to the functions of the craft gilds in regulating industry, preserving order, serving as beneficial societies, and religious and social organizations, their connection with the production of religious dramas became especially close. The appellation of "mistery plays," given so frequently to these pageants seems to be derived from their production by the misteries or craft gilds. The list of pageants in the *Corpus Christi* play at York is given as typical of this form of activity.

EXTRACTS FROM PIPE ROLL OF 30 HENRY I., A. D. 1130.

Latin : Record Commission Edition, 1833 ; pp. 109, 2, 144.

The weavers of Oxford return their account of one mark of gold for their gild. In the treasury, £6 for one mark of gold; and they are quit.

And the same sheriff returns his account of one mark of gold for the gild of the weavers of Lincoln. In the treasury, £6 for one mark of gold ; and he is quit.

Robert the son of Lewistan, returns his account of £6 from the gild of the weavers of London. In the treasury, he has made his settlement ; and he is quit.

ARTICLES OF THE SPURRIERS OF LONDON, A. D. 1345.

Riley's Memorials of London, pp. 226-228.

Be it remembered, that on Tuesday, the morrow of St. Peter's Chains, in the nineteenth year of the reign of King Edward III, the articles underwritten were read before John Hammond, mayor, Roger de Depham, recorder, and the alderman ; and seeing that the same were deemed befitting, they were accepted and enrolled in these words.

In the first place,—that no one of the trade of spurriers shall work longer than from the beginning of the day until curfew rung out at the Church of St. Sepulchre, without Newgate; by reason that no man can work so neatly by night as by day. And many persons of the said

trade, who compass how to practice deception in their work, desire to work by night rather by day; and then they introduce false iron, and iron that has been cracked, for tin, and also they put gilt on false copper, and cracked. And further,—many of the said trade are wandering about all day, without working at all at their trade; and then, when they have become drunk and frantic, they take to their work, to the annoyance of the sick, and all their neighborhood, as well by reason of the broils that arise between them and the strange folks who are dwelling among them. And then they blow up their fires so vigorously, that their forges begin all at once to blaze to the great peril of themselves and of all the neighborhood around. And then, too, all the neighbors are much in dread of the sparks, which so vigorously issue forth in all directions from the mouths of the chimneys in their forges. By reason thereof it seems unto them that working by night should be put an end to, in order such false work and such perils to avoid: and therefore the mayor and the aldermen do will, by the assent of the good folks of the said trade, and for the common profit, that from henceforth such time for working, and such false work made in the trade, shall be forbidden. And if any person shall be found in the said trade to do the contrary hereof, let him be amerced, the first time in 40d., one-half thereof to go to the use of the Chamber of the Guildhall of London, and the other half to the use of the said trade; the second time, in half a mark, and the third time in 10s., to the use of the same Chamber and trade; and the fourth time, let him forswear the trade forever.

Also that no one of the said trade shall hang his spurs out on Sundays, or any other days that are double feasts; but only a sign indicacating his business: and such spurs as they shall so sell, they are to show and sell within their shops, without exposing them without, or opening the doors or windows of their shops, on the pain aforesaid.

Also, that no one of the said trade shall keep a house or shop to carry on his business, unless he is free of the city; and that no one shall cause to be sold, or exposed for sale, any manner of old spurs for new ones, or shall garnish them or change them for new ones.

Also, that no one of the said trade shall take an apprentice for a less term than seven years, and such apprentice shall be enrolled according to the usages of the said city.

Also, that if any one of the said trade, who is not a freeman, shall take an apprentice for a term of years, he shall be amerced as aforesaid.

Also, that no one of the said trade shall receive the apprentice, serving-man or journeyman of another in the same trade, during the term agreed upon between his master and him; on the pain aforesaid.

Also, that no alien of another country, or foreigner of this country, shall follow or use the said trade, unless he is enfranchised before the mayor, alderman and chamberlain; and that by witness and surety of the good folks of the said trade, who will undertake for him as to his loyalty and his good behavior.

Also, that no one of the said trade shall work on Saturdays, after None has been rung out in the City; and not from that hour until the Monday morning following.

ORDINANCES OF THE WHITE-TAWYERS.

Riley's Memorials of London, pp. 232-234.

In honor of God, of Our Lady, and of All Saints, and for the nurture of tranquillity and peace among the good folks the megucers, called white-tawyers,[1] the folks of the same trade have, by assent of Richard Lacer, mayor, and of the aldermen, ordained the points under-written.

In the first place, they have ordained that they will find a wax candle, to burn before our Lady in the church of Allhallows, near London wall.

Also, that each person of the said trade shall put in the box such sum as he shall think fit, in aid of maintaining the said candle.

Also, if by chance any one of the said trade shall fall into poverty, whether through old age or because he cannot labor or work, and have nothing with which to keep himself, he shall have every week from the said box 7d. for his support, if he be a man of good repute. And after his decease, if he have a wife, a woman of good repute, she shall have weekly for her support 7d. from the said box, so long as she shall behave herself well and keep single.

And that no stranger shall work in the said trade, or keep house for the same in the city, if he be not an apprentice, or a man admitted to the franchise of the said city.

And that no one shall take the serving-man of another to work with him, during his term, unless it be with the permission of his master.

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[1]Those who dressed leather with salt, alum and other substances, giving it a white surface.

And if any one of the said trade shall have work in his house that he cannot complete, or if for want of assistance such work shall be in danger of being lost, those of the said trade shall aid him, that so the said work be not lost.

And if any one of the said trade shall depart this life, and have not wherewithal to be buried, he shall be buried at the expense of their common box. And when any one of the said trade shall die, all those of the said trade shall go to the vigil, and make offering on the morrow.

And if any serving-man shall conduct himself in any other manner than properly towards his master, and act rebelliously toward him, no one of the said trade shall set him to work, until he shall have made amends before the mayor and aldermen; and before them such misprision shall be redressed.

And that no one of the said trade shall behave himself the more thoughtlessly, in the way of speaking or acting amiss, by reason of the points aforesaid; and if any one shall do to the contrary thereof, he shall not follow the said trade until he shall have reasonably made amends.

And if any one of the said trade shall do to the contrary of any point of the ordinances aforesaid, and be convicted thereof by good men of the said trade, he shall pay to the Chamber of the Gildhall of London, the first time 2s., the second time 40d., the third time half a mark, and the fourth time 10s., and shall forswear the trade.

Also,—[1] that the good folks of the same trade shall once in the year be assembled in a certain place, convenient thereto, there to choose two men of the most loyal and benefitting of the said trade, to be overseers of work and all other things touching the trade for that year; which persons shall be presented to the mayor and aldermen for the time being, and sworn before them diligently to inquire and make search, and loyally to present to the said mayor and aldermen such defaults as they shall find touching the said trade without sparing anyone for friendship or for hatred, or in any other manner. And if any one of the said trade shall be found rebellious against the said overseers, so as not to let them properly make their search and assay, as they ought to do; or if he shall absent himself from the meeting aforesaid, without reasonable cause, after due warning by the said overseers, he shall pay to the Chamber, upon the first default, 40d.; and on the sec-

[1] This and the succeeding paragraphs were added to the earlier ordinances thirty years later, that is in 1376.

ond like default, half a mark ; and on the third one mark ; and on the fourth, 20s., and shall forswear the trade forever.

Also, that if the overseers shall be found lax and negligent about their duty, or partial to any person for gift or for friendship, maintaining him or voluntarily permitting him to continue in his default, and shall not present him to the mayor and aldermen, as before stated, they are to incur the penalty aforesaid.

Also, that each year, at such assemblies of the good folks of the said trade, there shall be chosen overseers, as before stated. And if it be found that through laxity or negligence of the said governors such assemblies are not held, each of the said overseers is to incur the said penalty.

Also, that all skins falsely and deceitfully wrought in their trade which the said overseers shall find on sale in the hands of any person, citizen or foreigner, within the franchise shall be forfeited to the said chamber, and the worker thereof amerced in manner aforesaid.

Also, that no one who has not been an apprentice, and has not finished his term of apprenticeship in the said trade, shall be made free of the same trade ; unless it be attested by the overseers for the time being, or by four persons of the said trade, that such person is able and sufficiently skilled to be made free of the same.

Also, that no one of the said trade shall induce the servant of another to work with him in the said trade, until he has made a proper fine with his first master, at the discretion of the said overseers, or of four reputable men of the said trade. And if any one shall do to the contrary thereof, or receive the serving workman of another to work with him during his term, without leave of the trade, he is to incur the said penalty.

Also, that no one shall take for working in the said trade more than they were wont heretofore, on the pain aforesaid ; that is to say, for the dyker[1] of Scotch stags, half a mark ; the dyker of Irish stags, half a mark ; the dyker of Spanish stags, 10s. ; for the hundred of goat skins, 20s. ; the hundred of roe leather, 16s. ; for the hundred skins of young deer, 8s. ; and for the hundred of kid skins, 8s.

[1] A dyker is a package of ten.

ORDINANCES OF THE GILD OF THE TAILORS, EXETER, A. D. 1466.

English: Smith's English Gilds, Early English Text Society, 1870, pp. 312–316.

To the worship of God and of our Lady Saint Mary, and of St. John the Baptist, and of all Saints; These be the ordinances made and established of the fraternity of the craft of tailors, of the city of Exeter, by assent and consent of the fraternity of the craft aforesaid gathered there together, for evermore to endure.

First, it is ordained, by virtue of the charter[1] granted by our sovereign lord King Edward the Fourth, in the sixth year of his reign, that the master of the aforesaid craft for the time being, every Thursday shall be at the common hall, or else a deputy for him upon pain of two pounds of wax. And every warden that is absent without reasonable cause shall pay a pound of wax to the use and profit of the aforesaid fraternity; and that the aforesaid master and wardens be there every Thursday at nine of the clock, there to ordain and rule what may be for the welfare of the fraternity and craft aforesaid, and none to act without the other.

Also, it is ordained by the master and wardens and the common council aforesaid that every person who is privileged with the craft aforesaid who is of the value of £20 of goods and above, shall be of the masters' fellowship and clothing. And every person that is of the fellowship and the aforesaid craft shall pay, every year, for his feast, at Midsummer, 12d., and his offering; and for his clothing as it comes to, within a month from Midsummer day, upon pain of being put out of the aforesaid fraternity and craft for evermore. And every person that is so admitted shall pay a spoon of silver, weighing an ounce, and its fashioning.

Also, it is ordained that every out-brother,[2] that is not privileged of the aforesaid fraternity and gild, shall pay every year 6d. at Midsummer. And if he refuse to pay this within a month from Midsummer, he is to be dismissed from the aforesaid fraternity and gild for evermore.

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[1] A charter granted directly by the king, 17th November, 1466; the original with a portion of the great seal attached being still in the archives of the city of Exeter.

[2] "Youte Brodere," apparently means a member of the gild who is not by occupation a tailor.

Also, it is ordained that all the fellowship of the bachelors shall hold their feast on St. John's day, in harvest. And every person that is a shop-holder of the aforesaid fellowship and craft shall pay to the aforesaid feast 8d. and his offering. And every servant[1] that receiveth wages shall pay 6d. to the aforesaid feast. And every out-brother that is of the aforesaid fellowship shall pay, every year, 4d. And if any of the fellowship and craft aforesaid, refuse to pay this, then their names shall be certified to the master and wardens, that they may do correction therein, as belongeth to them to do, according to charter granted by the sovereign lord, the King Edward the Fourth, the sixth year of his reign, by assent and consent of the mayor, the bailiffs, and commons of the city of Exeter, for ever to endure.

Also, it is ordained by the aforesaid master and wardens and fellowship of the fraternity and craft aforesaid that every servant that is of the aforesaid craft that taketh wages to the value of 20s. and above shall pay 20d. to be a free sewer, to the use and profit of the aforesaid fraternity; that no man of the aforesaid craft set any new sewer to work above the space of fifteen days without bringing him before the master and wardens there to pay his 20d. to be made a free sewer, or else to find a surety.

Also it is ordained by the master and wardens aforesaid that if any person of the aforesaid craft who is bound to pay any debt over to the aforesaid master and wardens, breaks his day by the space of half a year, he shall forfeit his whole bond. Provided, always, that if any person or persons aforesaid have fallen into poverty, and will testify so by his oath, he shall be discharged of his bond and debt and shall have sustenance by the foresaid craft as may be thought, by their discretion, convenient and reasonable.

Also, it is ordained by the foresaid master and wardens that if any brother of the aforesaid fraternity and craft despise another, calling him knave, or whoreson, or stupid, or any other misname, he shall pay at the first fault, 12d.; at the second fault, 20d.; and at the third fault, to be put out of the fraternity and craft for evermore.

Also, it is ordained by the foresaid master and wardens and the whole fellowship, that if any brother of the aforesaid craft take any

[1] There are evidently, in addition to the out-brethren, three classes of members of the gild: (1) those of £20 and above, who wear the livery; (2) the shop-holders or independent craftsmen of less substance than the former; and (3) the servants, journeymen, or free sewers as they are subsequently called.

clothing of any lord, knight or gentlemen, outside of the city without leave of the master and wardens, at the first fault, 40s., and at the second fault to be put out of the fraternity and craft for evermore.

Also, it is ordained by the foresaid master and wardens that there shall be four quarter-days that every brother of this craft shall assemble at our common-hall. And every shop-holder shall spend 2d. for a breakfast, or send his money by a deputy. And at that the oath and the ordinances and constitutions shall be read. The first day shall be the next Thursday after Twelfth day, and the second day shall be the second Thursday after Easter, and the third day shall be the second Thursday after the feast of St. John the Baptist, and the fourth day shall be the next Thursday after St. Michael's day. And at every of these foresaid days, after dinner there shall come all free sewers and take the remains of the meat and drink that the aforesaid master and shop-holders leave; and each of them shall spend 1d. to the welfare of the aforesaid fraternity and gild.

Also, it is ordained by the master and wardens that at every coste of ale that is given into the aforesaid fraternity and gild, every shop-holder shall spend thereto 1d., and every free sewer one farthing, and he that cometh not shall send his money by the beadle, upon pain of one pound of wax.

Also, it is ordained by the master and wardens and all the whole craft, that from henceforth no man of the said craft shall hold more than three servants and one apprentice at the most, without license of the master and wardens for the time being, upon pain of 40s. and he that pleadeth for him that doth against this ordinance shall forfeit 20s.

Also, it is ordained by the master and wardens and all the whole craft, that every person of the said craft that taketh an apprentice shall bring him before the master and wardens, there to have his indenture enrolled, the master to pay 12d. for his enrollment. This is to be done within a twelvemonth and a day or else he is to lose his freedom of the craft for evermore.

Also, it is ordained by the master and wardens and the craft aforesaid that every apprentice of the said craft that is enrolled and truly serveth his covenant shall pay a silver spoon weighing an ounce and its fashioning, and shall give a breakfast to the foresaid master and wardens before the day that he is able to be made freeman of the city aforesaid; and if he pay not a spoon worth 4s., then 4s. in money for the same.

Also, it is ordained by the master and wardens and the whole fel-

lowship that every person that shall be made free of the craft by redemption shall pay 20s. to his fine without any pardon; and when he is enabled, shall give a breakfast to the master and wardens, before he is admitted free man of the city. And every person so enabled from henceforth shall have, the first year, but one servant, the second year, two, the third, three, and an apprentice if he be able. And he that doeth against this ordinance shall forfeit, at the first fault, 20s. at the second offense, 40s., at the third offense, he shall be put out of the fraternity and craft for evermore.

ORDER OF THE PAGEANTS OF THE CORPUS CHRISTI PLAY IN THE CITY OF YORK, A. D. 1415.

English: L. T. Smith's "York Plays." Introduction, xix.

Each fraternity or craft-gild had charge of one scene in the whole series and performed it on a platform on wheels, successively, at each appointed station in the city on Corpus Christi day. As one scene was completed, its players moved on to the next station, their place being taken by the company having in charge the next pageant in the series.

Tanners.—God the Father Omnipotent creating and forming the heavens, the angels and archangels, Lucifer and the angels who fell with him into the pit.

Plasterers.—God the Father in his substance creating the earth and all things which are therein, in the space of five days.

Cardmakers.—God the Father forming Adam from the mud of the earth, and making Eve from Adam's rib, and inspiring them with the breath of life.

Fullers.—God forbidding Adam and Eve to eat of the tree of life.

Coopers.—Adam and Eve and the tree between them, the serpent deceiving them with apples; God speaking to them and cursing the serpent, and an angel with a sword driving them out of Paradise.

Armorers.—Adam and Eve, an angel with a spade and distaff appointing them their labor.

Glovers.—Able and Cain sacrificing victims.

Shipwrights.—God warning Noah to make an ark out of planed wood.

Fishmongers and Mariners.—Noah in the ark with his wife, three sons of Noah with their wives, with various animals.

Parchment-makers and Book-binders.—Abraham sacrificing his son Isaac on the altar.

Hosiers.—Moses lifting up the serpent in the wilderness, King Pharaoh, eight Jews looking on and wondering.

Spicers.—A doctor declaring the sayings of the prophets concerning the future birth of Christ. Mary, the angel saluting her; Mary saluting Elizabeth.

Pewterers and Founders.—Mary, Joseph wishing to send her away, the angel telling them to go over to Bethlehem.

Tilers.—Mary, Joseph, a nurse, the child born and lying in a manger between an ox and an ass, and an angel speaking to the shepherds, and to the players in the next pageant.

Chandlers.—Shepherds speaking to one another, the star in the East. an angel announcing to the shepherds their great joy in the child which has been born.

Goldsmiths, Goldbeaters and Moneyers.—Three kings coming from the East, Herod questioning them about the child Jesus, and the son of Herod and two counsellors and a herald. Mary with the child, and the star above, and three kings offering gifts.

(Formerly) The House of St. Leonard, (now) Masons.—Mary, with the boy, Joseph, Anna, the nurse, with the young doves. Simeon receiving the boy into his arms, and the two sons of Simeon.

Marshalls.—Mary with the boy and Joseph fleeing into Egypt, at the bidding of the angel.

Girdlers, Nailers, and Sawyers.—Herod ordering the male children to be slain, four soldiers with lances, two counsellors of the king, and four women weeping for the death of their sons.

Spurriers and Lorimers.—Doctors, the boy Jesus sitting in the temple in the midst of them, asking them questions and replying to them, four Jews, Mary and Joseph seeking him, and finding him in the temple.

Barbers.—Jesus, John the Baptist baptizing him, and two angels attending.

Vinters.—Jesus, Mary, bridegroom with the bride, ruler of the feast with his slaves, with six vessels of water in which the water is turned into wine.

Smiths.—Jesus on a pinnacle of the temple, and the devil tempting him with stones, and two angels attending, etc.

Curriers.—Peter, James, and John; Jesus ascending into a mountain and transfiguring himself before them. Moses and Elias appearing, and the voice of one speaking in a cloud.

Ironmongers.—Jesus, and Simon the leper asking Jesus to eat with him; two disciples, Mary Magdalene bathing Jesus feet with her tears and drying them with her hair.

Plumbers and Patternmakers.—Jesus, two apostles, the woman taken in adultery, four Jews accusing her.

Pouchmakers, Bottlers, and Capmakers.—Lazarus in the sepulchre, Mary Magdalene and Martha, and two Jews wondering.

Spinners and Vestmakers.—Jesus on an ass with its colt, twelve apostles following Jesus, six rich and six poor, eight boys with branches of palm, singing Blessed, etc., and Zaccheus climbing into a sycamore tree.

Cutlers, Bladesmiths, Sheathers, Scalers, Bucklermakers, and Horners.—Pilate, Caiaphas, two soldiers, three Jews, Judas selling Jesus.

Bakers.—The passover lamb, the Supper of the Lord, twelve apostles, Jesus girded with a towel, washing their feet, institution of the sacrament of the body of Christ in the new law, communion of the apostles.

Cordwainers.—Pilate, Caiaphas, Annas, fourteen armed soldiers, Malchus, Peter, James, John, Jesus, and Judas kissing and betraying him.

Bowyers and Fletchers.—Jesus, Annas, Caiaphas, and four Jews beating and scourging Jesus. Peter, the woman accusing Peter, and Malchus.

Tapestrymakers and Couchers.—Jesus, Pilate, Annas, Caiaphas, two counsellors and four Jews accusing Jesus.

Littesters.—Herod, two counsellors, four soldiers, Jesus, and three Jews.

Cooks and Watercarriers.—Pilate, Annas, Caiaphas, two Jews, and Judas bringing back to them the thirty pieces of silver.

Tilemakers, Millers, Furriers, Hayresters, Bowlers.—Jesus, Pilate, Caiaphas, Annas, six soldiers holding spears with banners, and four others leading Jesus away from Herod, asking to have Barabbas released and Jesus crucified, and likewise binding and scourging him, and placing the crown of thorns upon his head; three soldiers casting lots for the clothing of Jesus.

Shearmen.—Jesus, stained with blood, bearing the cross to Calvary. Simon of Cyrene, the Jews compelling him to carry the cross;

Mary the mother of Jesus; John the apostle then announcing the condemnation and passage of her son to Calvary. Veronica wiping the blood and sweat from the face of Jesus with a veil on which is imprinted the face of Jesus, and other women mourning for Jesus.

Pinmakers, Latenmakers, and Painters.—The cross, Jesus stretched upon it on the ground; four Jews scourging Him and binding Him with ropes, and afterwards lifting the cross, and the body of Jesus nailed to the cross on Mount Calvary.

Butchers and Poultry Dealers.—The cross, two thieves crucified, Jesus hanging on the cross between them, Mary the mother of Jesus, John, Mary, James, and Salome. A soldier with a lance, a servant with a sponge, Pilate, Annas, Caiaphas, the centurion, Joseph of Arimathea and Nicodemus, placing Him in the sepulchre.

Saddlers, Glaziers and Joiners.—Jesus conquering hell; twelve spirits, six good, and six evil.

Carpenters.—Jesus rising from the sepulchre, four armed soldiers, and the three Marys mourning. Pilate, Caiaphas, and Annas. A young man seated at the sepulchre clothed in white, speaking to the women.

Winedrawers.—Jesus, Mary Magdalene with aromatic spices.

Brokers and Woolpackers.—Jesus, Luke, and Cleophas in the guise of travelers.

Scriveners, Illuminators, Pardoners and Dubbers.—Jesus, Peter, John, James, Philip, and the other apostles with parts of a baked fish, and a honey-comb; and Thomas the apostle touching the wounds of Jesus.

Tailors.—Mary, John the evangelist, the eleven apostles, two angels, Jesus ascending before them, and four angels carrying a cloud.

Potters.—Mary, two angels, eleven apostles, and the Holy Spirit descending upon them, and four Jews wondering.

Drapers.—Jesus, Mary, Gabriel with two angels, two virgins and three Jews of Mary's acquaintance, eight apostles, and two devils.

Linen-weavers.—Four apostles carrying the bier of Mary, and Fergus hanging above the bier, with two other Jews and an angel.

Woolen-weavers.—Mary ascending with a throng of angels, eight apostles, and the apostle Thomas preaching in the desert.

Innkeepers.—Mary, Jesus crowning her, with a throng of angels singing.

Mercers.—Jesus, Mary, the twelve apostles, four angels with trumpets, and four with a crown, a lance, and two whips, four good spirits, and four evil spirits, and six devils.

V. SOCIAL OR NON-INDUSTRIAL GILDS.

From very early times organizations existed in the nature of semi-religious clubs or benefit societies, the membership being voluntary and quite unconnected with trade or manufacturing interests or responsibilities. The characteristic tendency of the Middle Ages to organization found much of its satisfaction in these small social or religious gilds, which existed not only in the larger towns but even in villages. They were moreover among the most permanent of mediæval institutions. We have records of their existence alongside of the "frith-gilds" of Anglo-Saxon times; a great proportion of the five hundred or more gilds which sent in reports of their ordinances in 1389[1] were of this class, and many were found among the "corporations, gilds, fraternities, companies and fellowships" dissolved in 1547.

RULES OF A GILD AT EXETER, BEFORE THE XI. CENTURY.

Anglo-Saxon; Thorpe, *Diplomatarium Anglicum*, 613, and English; Kemble, Saxons in England, i. 512, 513.

This assembly was collected in Exeter, for the love of God and for our soul's need, both in regard to our life here, and to the after days which we desire for ourselves by God's doom.

Now we have agreed that our meeting shall be thrice in the twelve months; once at St. Michael's Mass, secondly at St. Mary's Mass, after mid-winter, and thirdly at Allhallow's Mass after Easter; and let each gild-brother have two sesters of malt, and each young man one sester, and a sceat of honey; and let the mass-priest at each of our meetings sing two masses, one for our living friends, the other for the dead; and let each brother of common condition sing two psalters of psalms, one for the living and one for the dead; and at the death of a brother, each man six masses; or six psalters of psalms; and at a death each man five pence; and at a house-burning each man one penny. And if any one neglect the day, for the first time three masses, for the second five, and at the third time let him have no favor, unless his neglect arose from sickness or his lord's need. And if any one neglect his subscription at the proper day, let him pay double. And if any one of this brotherhood misgreet another, let him make boot with thirty pence. Now we pray for the love of God that every man hold this meeting rightly, as we rightly have agreed upon it. God help us thereunto.

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[1] Many of these are printed, and others epitomized in Toulmin Smith's "English Gilds," published by the Early English Text Society in 1870.

REPORT OF WARDENS OF THE GILD OF ST. KATHARINE AT NORWICH, A. D. 1389.

English: Toulmin Smith, English Gilds, pp. 19–21.

To the most excellent prince and lord, our lord Richard, by the grace of God, king of England and France, and to his council in his chancery, his humble lieges, the guardians of a certain fraternity of St. Katharine the virgin and martyr, in the church of St. Simon and St. Jude in Norwich, all subjection and reverence and honor. By virtue of a certain proclamation recently made according to royal command by the sheriff of the county of Norfolk at Norwich, we certify to your excellency according to the form of the aforesaid proclamation, that our aforesaid fraternity was founded in the year 1307, by certain parishioners of the said church, and by others devoted to God, to the honor of the Holy Trinity, and of the blessed Virgin Mary, and of St. Katharine the virgin and martyr, and of all saints, and for keeping up an increase of light in the said Church; under certain ordinances made and issued with common consent of the brothers and sisters of the aforesaid fraternity. The tenor of these ordinances follows in these words.

In the first place with one assent it is ordained that all the brethren and sisters of this gild shall come together to the parish church of St. Simon and St. Jude, in Norwich, on the day of St. Katharine, to go in the procession with their candle, which is borne before them, and to hear the mass of St. Katharine in the aforesaid church; and at that mass every brother and sister shall offer a half-penny.

And also it is ordained that what brother or sister shall be absent at the procession aforesaid, or at mass, or at offering, he shall pay to the chattels of the gild two pounds of wax, but they may be excused reasonably.

And also it is ordained, that where a brother or a sister is dead, and every brother and sister shall come to *dirige* and to mass; and at the mass, each shall offer a half-penny, and give a half-penny to alms; and for a mass to be sung for the soul of the dead, a penny. And at the *dirige*, every brother and sister that is lettered shall say, for the soul of the dead, *placebo and dirige*, in the place where they shall come together; and every brother and sister that is not lettered shall say for the soul of the dead, twenty times, the *Paternoster*, with *ave Maria*; and from the chattels of the gild shall there be two candles of wax, of sixteen pounds weight, about the body of the dead.

And also it is ordained, that if any brother or sister die out of the city of Norwich, within eight miles, six of the brethren that have the

chattels of the gild in keeping, shall go to that brother or sister that is dead; and if it be lawful, they shall carry it to Norwich, or else it be buried there; and if the body be buried out of Norwich, all the brethren and sisters shall be warned to come to the foresaid church of St. Simon and St. Jude, and there shall be done for the soul of the dead all service, light and offering as if the body were there present. And what brother or sister be absent at *placebo* and *dirige*, or at mass, he shall pay two pounds of wax to the chattels of the gild, unless he be reasonably excused. And nevertheless he shall do for the dead as it is said before.

And also it is ordained that, on the morrow after the gild day all the brethren and sisters shall come to the aforesaid church, and there sing a mass of requiem for the souls of the brethren and sisters of this gild, and for all Christian souls, and each offer there a farthing. And whoso is absent he shall pay a pound of wax.

And also it is ordained that if any brother or sister fall into poverty, through adventure of the world, his estate shall be helped by every brother and sister of the gild, with a farthing in the week.

And also it is ordained by common assent that if there be any discord between brothers and sisters, that discord shall be first showed to other brothers and sisters of the gild, and by them shall accord be made, if it may be skillfully. And if they cannot be so brought to accord, it shall be lawful to them to go to the common law, without any maintenance. And whoso does against this ordinance, he shall pay two pounds of wax to the light.

Also it is ordained, by common assent, that if any brother of this gild be chosen into office and refuse it, he shall pay two pounds of wax to the light of St. Katharine.

Also it is ordained, by common assent, that the brethren and sisters of this gild, in the worship of St. Katharine, shall have a livery of hoods in suit, and eat together in their gild day, at their common cost; and whoso fails, he shall pay two pounds of wax to the light.

Also it is ordained, by common assent, that no brother or sister shall be received into this gild but by the alderman and twelve brethren of the gild.

And as to the goods and chattels of the said fraternity, we make known to your excellency, likewise, that we the aforesaid guardians, have in our custody, for the use of the said fraternity, twenty shillings of silver.

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Translations and Reprints

FROM THE

ORIGINAL SOURCES OF EUROPEAN HISTORY.

VOL. II. ENGLAND IN THE TIME OF WYCLIFFE. No. 5.

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I. THE BLACK DEATH.

Contemporary accounts of the great pestilence of 1348-9 are surprisingly few. Several of the chronicles close shortly before that date, and others seem to have been suspended during the period of confusion attendant upon it. Its extent and effects are, however, discoverable from a large mass of ecclesiastical and manorial records, and from the appearance on the Statute-book of the Statutes of Laborers. The document (3) printed below is not properly a law, but a royal ordinance, issued apparently in the summer of 1349, while the plague was still raging. It was transformed into a law, with closer definition of the rate of wages, at the first subsequent meeting of Parliament, in 1351; (25 Ed. iii. Stat. 2.) This law was frequently reënacted in various forms until it came to be embraced in the great Statute of Apprentices;

(5 Eliz. c. 4.) There are some inconsistencies in the address of the document, as it has been preserved, but in the form here adopted it seems to have been issued to all the sheriffs and the officials of large towns, with instructions for its immediate proclamation.

1. WALSINGHAM'S ACCOUNT.

Historia Anglicana, I, 273, Rolls Series. Latin.

In the year of grace 1349, which was the twenty-third year of king Edward, the third since the Conquest, a great mortality of mankind advanced over the world; beginning in the regions of the north and east, and ending with so great a destruction that scarcely half of the people remained. Then towns once full of men became destitute of inhabitants; and so violently did the pestilence increase that the living were scarce able to bury the dead. Indeed, in certain houses of men of religion, scarcely two out of twenty men survived. It was estimated by many that hardly a tenth part of mankind had been left alive. A murrain among animals followed immediately upon this pestilence; then rents ceased; then the land, because of the lack of tenants, who where nowhere to be found, remained uncultivated. So great misery followed from these evils that the world was never afterward able to return to its former state.

2. ROBERT OF AVESBURY'S ACCOUNT.

Chronicle, A. D. 1348-9, pp. 406, 407, Rolls Series. Latin.

The pestilence which had first broken out in the land occupied by the Saracens became so much stronger that, sparing no dominion, it visited with the scourge of sudden death the various parts of all the kingdoms, extending from that land to the northward, including even Scotland, destroying the greater part of the people. For it began in England in Dorsetshire, about the feast of St. Peter, called *ad vincula*, in the year of the Lord 1348, and immediately advancing from place to place it attacked men without warning and for the most part those who were healthy. Very many of those who were attacked in the morning it carried out of human affairs before noon. And no one whom it willed to die did it permit to live longer than three or four days. There was moreover no choice of persons, with the exception, at least, of a few rich people. In the same day twenty, forty or sixty corpses, and indeed many times as many more bodies of those who had died, were delivered to church burial in the same pit at the same time. And about the feast

of All Saints, reaching London, it deprived many of their life daily, and increased to so great an extent that from the feast of the Purification till after Easter there were more than two hundred bodies of those who had died buried daily in the cemetery which had been then recently made near Smithfield, besides the bodies which were in other graveyards of the same city. The grace of the Holy Spirit finally intervening, that is to say about the feast of Whitsunday, it ceased at London, proceeding continuously northward. In these parts also it ceased about the feast of St. Michael, in the year of the Lord 1349.

3. THE KING'S PROCLAMATION CONCERNING LABORERS.

Statutes of the Realm, I, 307, 308. Latin.

The king to the sheriff of Kent, greeting. Because a great part of the people, and especially of workmen and servants, have lately died in the pestilence, many seeing the necessities of masters and great scarcity of servants, will not serve unless they may receive excessive wages, and others preferring to beg in idleness rather than by labor to get their living; we, considering the grievous incommodities which of the lack especially of ploughmen and such laborers may hereafter come, have upon deliberation and treaty with the prelates and the nobles and learned men assisting us, with their unanimous counsel ordained:

That every man and woman of our realm of England, of what condition he be, free or bond, able in body, and within the age of sixty years, not living in merchandize, nor exercising any craft, nor having of his own whereof he may live, nor land of his own about whose tillage he may occupy himself, and not serving any other; if he be required to serve in suitable service, his estate considered, he shall be bound to serve him which shall so require him; and take only the wages, livery, meed, or salary which were accustomed to be given in the places where he oweth to serve, the twentieth year of our reign of England, or five or six other common years next before. Provided always, that the lords be preferred before others in their bondmen or their land tenants, so in their service to be retained; so that, nevertheless, the said lords shall retain no more than be necessary for them. And if any such man or woman being so required to serve will not do the same, and that be proved by two true men before the sheriff, bailiff, lord, or constable of the town where the same shall happen to be done, he shall immediately be taken by them or any of them, and committed to the next gaol, there to

remain under strait keeping, till he find surety to serve in the form aforesaid

If any reaper, mower, other workman or servant, of what estate or condition he be, retained in any man's service, do depart from the said service without reasonable cause or license, before the term agreed, he shall have pain of imprisonment; and no one, under the same penalty, shall presume to receive or retain such a one in his service.

No one, moreover, shall pay or promise to pay to any one more wages, liveries, meed, or salary than was accustomed, as is before said; nor shall any one in any other manner demand or receive them, upon pain of doubling of that which shall have been so paid, promised, required or received, to him who thereof shall feel himself aggrieved; and if none such will sue, then the same shall be applied to any of the people that will sue; and such suit shall be in the court of the lord of the place where such case shall happen.

And if lords of towns or manors presume in any point to come against this present ordinance, either by them or by their servants, then suit shall be made against them in the form aforesaid, in the counties, wapentakes, and trithings, or such other courts of ours, for the penalty of treble that so paid or promised by them or their servants. And if any before this present ordinance hath covenanted with any so to serve for more wages, he shall not be bound, by reason of the said covenant, to pay more than at another time was wont to be paid to such a person; nor, under the same penalty, shall presume to pay more.

Item. Saddlers, skinners, white tawyers, cordwainers, tailors, smiths, carpenters, masons, tilers, shipwrights, carters, and all other artificers and workmen, shall not take for their labor and workmanship above the same that was wont to be paid to such persons the said twentieth year, and other common years next preceding, as before is said, in the place where they shall happen to work; and if any man take more he shall be committed to the next gaol, in manner as before is said.

Item. That butchers, fishmongers, hostelers, brewers, bakers, poulterers, and all other sellers of all manner of victuals, shall be bound to sell the same victuals for a reasonable price, having respect to the price that such victuals be sold at in the places adjoining, so that the same sellers have moderate gains, and not excessive, reasonably to be required according to the distance of the place from which the said victuals be carried; and if any sell such victuals in any other manner, and thereof be convicted, in the manner and form aforesaid, he shall pay the double of the same that he so received to the party injured, or in default of him,

to any other that will sue in this behalf. And the mayors and bailiffs of cities, boroughs, merchant towns, and others, and of the ports and maritime places, shall have power to inquire of all and singular, which shall in any thing offend against this, and to levy the said penalty to the use of them at whose suit such offenders shall be convicted. And in case the same mayors and bailiffs be negligent in doing execution of the premises, and thereof be convicted before our justices, by us to be assigned, then the same mayors and bailiffs shall be compelled by the same justices to pay the treble of the thing so sold to the party injured, or in default of him, to any other that will sue; and nevertheless they shall be grievously punished on our part.

And because many strong beggars, as long as they may live by begging, do refuse to labor, giving themselves to idleness and vice, and sometimes to theft and other abominations; none upon the said pain of imprisonment, shall, under the color of pity or alms, give anything to such, who are able to labor, or presume to favor them in their idleness, so that thereby they may be compelled to labor for their necessary living.

II. STATUTES OF PROVISORS AND PRÆMUNIRE.

A consistent effort was made by the Popes, from the latter part of the thirteenth century to the middle of the fifteenth, to gain an increased control over ecclesiastical patronage in England. Not only was the old right of appointment in various irregular cases extended, but the system of papal reservations was developed. The Pope formally reserved to himself the future appointment to certain benefices when they should become vacant. In the meantime he appointed some one to the future vacancy by giving him letters which were made public only when the actual incumbent died. Provision was thus made for an occupant of the benefice, and, by a curious misuse of the termination, such persons, appointed beforehand by the Pope, were called "provisors of benefices." Suits in regard to such appointments seem to have brought up the question of the limits of papal jurisdiction in England, which was the subject of the Statutes of Præmunire, as that of patronage was the subject of the Statutes of Provisors. It is not possible to dissociate entirely in the laws the limitation of papal patronage and the restriction of papal jurisdiction, the two terms mentioned above being often used almost interchangeably. The Statutes of Provisors and of Præmunire are as follows: 35 Ed. I; 25 Ed. III, Stat. 4; 25 Ed. III, Stat. 5. c. 22; 27 Ed. III, c. 1; 38 Ed. III, Stat. 2; 3 Rich. II, c. 3; 7 Rich. II, c. 12; 12 Rich. II, c. 15; and 16 Rich. II, c. 5. The following are given as typical. The second document, the Statute of Præmunire of 1393, was the first to become really effective.

1. STATUTE OF PROVISORS OF 1352.

25 Ed. III, Stat. 5, c. 22. Statutes of the Realm, I, 323, 324. Latin.

Because that some do purchase in the court of Rome provisions to have abbeys and priories in England, in destruction of the realm, and of holy religion; it is accorded, that every man that purchaseth such provisions of abbeys or priories, that he and his executors and procurators which do sue and make execution of such provisions, shall be out of the king's protection; and that a man may do with them as of enemies of our sovereign lord the king and his realm; and he that offendeth against such provisors in body or in goods, or in other possessions, shall be excused against all people, and shall never be impeached nor grieved for the same at any man's suit.

2. STATUTE OF PRÆMUNIRE OF 1393.

16 Rich. II, c. 5, Statutes of the Realm, II, 84. Latin.

Whereas, the Commons of the realm in this present Parliament have showed to our redoubted lord the king, grievously complaining, that whereas the said our lord the king and all his liege people ought of right and of old time were wont to sue in the king's court, to recover their presentments to churches, prebends, and other benefices of holy church to the which they had right to present, the cognisance of plea of which suit belongeth only to the king's court of the old right of his crown, used and approved in the time of all his progenitors, kings of England; and when judgment shall be given in the same court upon such a plea and suit, the archbishops, bishops, and other spiritual persons which have institution of such benefices within their jurisdiction be bound, and have made execution of such judgments by the king's commandments, for all the time aforesaid without interruption, (for another, a lay person, is not able to make such execution), and also be bound of right to make execution of many other of the king's commandments, of which right the crown of England hath been peaceably seized, as well in the time of our said lord the king that now is, as in the time of all his progenitors till this day.

But now of late divers processes be made by the holy father the Pope, and censures of excommunication upon certain bishops of England, because they had made execution of such commandments, to the open disherison of the same crown and destruction of the regalty of our said

lord the king, his law, and all his realm, if remedy be not provided. And also it is said and a common clamor is made that the said holy father, the Pope, hath ordained and purposed to translate some prelates of the same realm, some out of the realm, and some from one bishopric into another within the same realm, without the king's assent and knowledge, and without the assent of the prelates which are to be so translated, which prelates be much profitable and necessary to our said lord the king, and to all his realm; by which translations, if they should be suffered, the statutes of the realm should be defeated and made void; and his said liege sages of his council, without his assent and against his will carried away and gotten out of his realm and the substance and treasure of the realm should be carried away, and so the realm destitute as well of council as of substance, to the final destruction of the same realm. So the crown of England which hath been so free at all times that it hath had no earthly sovereign, but is immediately subject to God in all things touching the regalty of the same crown, and to none other, would be submitted to the Pope, and the laws and statutes of the realm by him defeated and avoided at his will, in perpetual destruction of the sovereignty of the king our lord, his crown, his regalty, and of all his realm, which God forbid.

And moreover, the Commons aforesaid say, that the things so attempted be clearly against the king's crown and his regalty, used and approved in the time of all his progenitors; wherefore, they and all the liege commons of the same realm will stand with our said lord the king. and his said crown and his regalty, in the cases aforesaid, and in all other cases attempted against him his crown and his regalty in all points, to live and to die; and moreover, they pray the king and require him, by way of justice, that he would examine all the lords in the Parliament, as well spiritual as temporal severally, and all the estates of the Parliament, how they think of the cases aforesaid, which be so openly against the king's crown, and in derogation of his regalty, and how they will stand in the same cases with our lord the king in upholding the rights of the said crown and regalty.

Wherefore, the lords temporal so demanded have answered every one by himself, that the cases aforesaid be clearly in derogation of the king's crown and of his regalty, as is well known, and hath been of a long time known, and that they will be with the same crown and regalty, in these cases specially, and in all other cases which shall be attempted against the same crown and regalty in all points, with all their power.

And, moreover, there was demanded of the lords spiritual being there and the procurators of others, being absent, their advice and will in all these cases; which lords, that is to say, the archbishops, bishops, and other prelates, being in the said Parliament severally examined, (making protestations that it is not their intention to say nor to affirm that our holy father the Pope may not excommunicate bishops and that he may not make translations of prelates according to the law of holy church;) answered and said, that if any executions of processes made in the king's court, as before, be made by any, and censures of excommunications be made against any bishops of England, or any other of the king's liege people, for that they have made execution of such commandments, and that if any executions of such translations be made of any prelates of the same realm, which lords be very profitable and necessary to our said lord the king, and to his said realm, or that his sage lieges of his council, without his assent and against his will, be removed and carried out of the realm, so that the substance and treasure of the realm may be consumed, that the same is against the king and his crown, as is contained in the petition before named. And likewise the same procurators, every one by himself examined upon the said matters, have answered and said, in the name and for their lords, as the said bishops have said and answered; and that the said lords spiritual will and ought to stand with the king in these cases loyally in maintenance of his crown, and in all other cases touching his crown and regalty, as they are bound by their allegiance.

Whereupon, our said lord the king, by the assent aforesaid, and at the request of his said Commons, hath ordained and established; that if anyone purchases or pursues or causes to be purchased or pursued in the court of Rome or elsewhere any such translations, processes, and sentences of excommunications, bills, instruments, or any other thing whatsoever which touches the king our lord, against him, his crown and regalty, or his realm, as before is said, and those who bring them within the realm, or receive them, or make thereof notification, or any other execution whatsoever, within the same realm or without; that they, their notaries, procurators, maintainers, abettors, favorers, and counsellors, shall be put out of the protection of our said lord the king, and their lands and tenements, goods and chattels, shall be forfeited to our lord the king; and that they shall be attached by their bodies, if they may be found, and brought before the king and his council, there to answer to the cases aforesaid, or that process be made against them

by *præmunire facias*, in manner as it is ordained in other statutes of provisors and others who sue in the court of another, in derogation of the regalty of our lord the king.

III. WYCLIFFE AND THE LOLLARDS.

Of the three forms of the movement for church reform in the last half of the fourteenth century, the attack on the unworthy lives of the clergy, the introduction of new doctrine, and the propaganda for a more devout life among the laity through the institution of the "poor priests," and the translation of the Bible; the last two only are here represented. The teachings of Wycliffe were certainly in conflict with much of the teaching and with more of the practice of the catholic church. If the doctrines here attributed to him were not exactly his, as he claimed, yet their general conformity to his views is unquestionable. The statute of 1401, usually described as "*de heretico cumburendo*," was an amplification of a statute against unauthorized preachers, passed in 1382. It gave the first statute authority for the infliction of the death penalty for heresy, though heretics had been burned before this under the common law.

1. WYCLIFFITE CONCLUSIONS, TEN CONDEMNED AS HERETICAL AND FOURTEEN AS ERRONEOUS.

Fasciculi Zizaniorum, pp. 277-282. Rolls Series. Latin.

I.—That the material substance of bread and of wine remains, after the consecration, in the sacrament of the altar.

II.—That the accidents do not remain without the subject, after the consecration, in the same sacrament.

III.—That Christ is not in the sacrament of the altar identically, truly and really in his proper corporal presence.

IV.—That if a bishop or priest lives in mortal sin he does not ordain, or consecrate, or baptize.

V.—That if a man has been truly repentant, all external confession is superfluous to him, or useless.

VI.—Continually to assert that it is not founded in the gospel that Christ instituted the mass.

VII.—That God ought to be obedient to the devil.

VIII.—That if the pope is foreordained to destruction and a wicked man, and therefore a member of the devil, no power has been given to him over the faithful of Christ by any one, unless perhaps by the Emperor.

IX.—That since Urban the Sixth, no one is to be acknowledged as pope; but all are to live, in the way of the Greeks, under their own laws.

X.—To assert that it is against sacred scripture that men of the church should have temporal possessions.

XI.—That no prelate ought to excommunicate any one unless he first knows that the man is excommunicated by God.

XII.—That a person thus excommunicating is thereby a heretic or excommunicate.

XIII.—That a prelate excommunicating a clerk who has appealed to the king, or to a council of the kingdom, on that very account is a traitor to God, the king and the kingdom.

XIV.—That those who neglect to preach, or to hear the word of God, or the gospel that is preached, because of the excommunication of men, are excommunicate, and in the day of judgment will be considered as traitors to God.

XV.—To assert that it is allowed to any one, whether a deacon or a priest, to preach the word of God, without the authority of the apostolic see, or of a catholic bishop, or some other which is sufficiently acknowledged.

XVI.—To assert that no one is a civil lord, no one is a bishop, no one is a prelate, so long as he is in mortal sin.

XVII.—That temporal lords may, at their own judgment, take away temporal goods from churchmen who are habitually delinquent; or that the people may, at their own judgment, correct delinquent lords.

XVIII.—That tithes are purely charity, and that parishioners may, on account of the sins of their curates, detain these and confer them on others at their will.

XIX.—That special prayers applied to one person by prelates or religious persons, are of no more value to the same person than general prayers for others in a like positien are to him.

XX.—That the very fact that any one enters upon any private religion whatever, renders him more unfitted and more incapable of observing the commandments of God.

XXI.—That saints who have instituted any private religions whatever, as well of those having possessions as of mendicants, have sinned in thus instituting them.

XXII.—That religious persons living in private religions are not of the Christian religion.

XXIII.—That friars should be required to gain their living by the labor of their hands and not by mendicancy.

XXIV.—That a person giving alms to friars, or to a preaching friar, is excommunicate; also the one receiving.

2. BULL OF POPE GREGORY XI., AGAINST JOHN WYCLIFFE.

Fasciculi Zizaniorum; pp. 242-244. Rolls Series. Latin.

Gregory, bishop, servant of the servants of God, to his beloved sons the chancellor and University of Oxford, in the diocese of Lincoln, grace and apostolic benediction.

We are compelled to wonder and grieve that you, who, in consideration of the favors and privileges conceded to your university of Oxford by the apostolic see, and on account of your familiarity with the Scriptures, in whose sea you navigate, by the gift of God, with auspicious oar, you, who ought to be, as it were, warriors and champions of the orthodox faith, without which there is no salvation of souls, —that you through a certain sloth and neglect allow tares to spring up amidst the pure wheat in the fields of your glorious university aforesaid; and what is still more pernicious, even continue to grow to maturity. And you are quite careless, as has been lately reported to us, as to the extirpation of these tares; with no little clouding of a bright name, danger to your souls, contempt of the Roman church, and injury to the faith above mentioned. And what pains us the more is that this increase of the tares aforesaid is known in Rome before the remedy of extirpation has been applied in England where they sprang up. By the insinuation of many, if they are indeed worthy of belief, deploring it deeply, it has come to our ears that John de Wycliffe, rector of the church of Lutterworth, in the diocese of Lincoln, Professor of the Sacred Scriptures, (would that he were not also Master of Errors,) has fallen into such a detestable madness that he does not hesitate to dogmatize and publicly preach, or rather vomit forth from the recesses of his breast certain propositions and conclusions which are erroneous and false. He has cast himself also into the depravity of preaching heretical dogmas which strive to subvert and weaken the state of the whole church and even secular polity, some of which doctrines, in

changed terms, it is true, seem to express the perverse opinions and unlearned learning of Marsilio of Padua of cursed memory, and of John of Jandun, whose book is extant, rejected and cursed by our predecessor, Pope John XXII, of happy memory. This he has done in the kingdom of England, lately glorious in its power and in the abundance of its resources, but more glorious still in the glistening piety of its faith, and in the distinction of its sacred learning; producing also many men illustrious for their exact knowledge of the holy Scriptures, mature in the gravity of their character, conspicuous in devotion, defenders of the catholic church. He has polluted certain of the faithful of Christ by besprinkling them with these doctrines, and led them away from the right paths of the aforesaid faith to the brink of perdition.

Wherefore, since we are not willing, nay, indeed, ought not to be willing, that so deadly a pestilence should continue to exist with our connivance, a pestilence which, if it is not opposed in its beginnings, and torn out by the roots in its entirety, will be reached too late by medicines when it has infected very many with its contagion; we command your university with strict admonition, by the apostolic authority, in virtue of your sacred obedience, and under penalty of the deprivation of all the favors, indulgences, and privileges granted to you and your university by the said see, for the future not to permit to be asserted or set forth to any extent whatever, the opinions, conclusions, and propositions which are in variance with good morals and faith, even when those setting them forth strive to defend them under a certain fanciful wresting of words or of terms. Moreover, you are on our authority to arrest the said John, or cause him to be arrested and to send him under a trustworthy guard to our venerable brother, the Archbishop of Canterbury, and the Bishop of London, or to one of them.

Besides, if there should be, which God forbid, in your university, subject to your jurisdiction, opponents stained with these errors, and if they should obstinately persist in them, proceed vigorously and earnestly to a similar arrest and removal of them, and otherwise as shall seem good to you. Be vigilant to repair your negligence which you have hitherto shown in the premises, and so obtain our gratitude and favor, and that of the said see, besides the honor and reward of the divine recompense.

Given at Rome, at Santa Maria Maggiore, on the 31st of May, the sixth year of our pontificate.

3. REPLY OF WYCLIFFE TO HIS SUMMONS BY THE POPE TO COME TO ROME, 1384.

Arnold's Select Eng. Works of Wycliff, III, 504-6, English, modernized in spelling.

I have joy fully to tell what I hold, to all true men that believe and especially to the Pope; for I suppose that if my faith be rightful and given of God, the Pope will gladly confirm it; and if my faith be error, the Pope will wisely amend it.

I suppose over this that the gospel of Christ be heart of the corps of God's law; for I believe that Jesus Christ, that gave in his own person this gospel, is very God and very man, and by this heart passes all other laws.

I suppose over this that the Pope be most obliged to the keeping of the gospel among all men that live here; for the Pope is highest vicar that Christ has here in earth. For moreness of Christ's vicar is not measured by worldly moreness, but by this, that this vicar follows more Christ by virtuous living; for thus teacheth the gospel, that this is the sentence of Christ.

And of this gospel I take as believe, that Christ for time that he walked here, was most poor man of all, both in spirit and in having; for Christ says that he had nought for to rest his head on. And Paul says that he was made needy for our love. And more poor might no man be. neither bodily nor in spirit. And thus Christ put from him all manner of worldly lordship. For the gospel of John telleth that when they would have made Christ king, he fled and hid him from them, for he would none such worldly highness.

And over this I take it as believe, that no man should follow the Pope, nor no saint that now is in heaven, but in as much as he follows Christ. For John and James erred when they coveted worldly highness; and Peter and Paul sinned also when they denied and blasphemed in Christ; but men should not follow them in this, for then they went from Jesus Christ. And this I take as wholesome counsel, that the Pope leave his worldly lordship to worldly lords, as Christ gave them,—and move speedily all his clerks to do so. For thus did Christ, and taught thus his disciples, till the fiend had blinded this world. And it seems to some men that clerks that dwell lastingly in this error against God's law, and flee to follows Christ in this, been open heretics, and their fautors been partners.

And if I err in this sentence, I will meekly be amended, yea, by the death, if it be skilful, for that I hope were good to me. And if I

might travel in mine own person, I would with good will go to the Pope But God has needed me to the contrary, and taught me more obedience to God than to men. And I suppose of our Pope that he will not be Antichrist, and reverse Christ in this working, to the contrary of Christ's will; for if he summon against reason, by him or by any of his, and pursue this unskilful summoning, he is an open Antichrist. And merciful intent excused not Peter, that Christ should not clepe him Satan; so blind intent and wicked counsel excuses not the Pope here; but if he ask of true priests that they travel more than they may, he is not excused by reason of God, that he should not be Antichrist. For our belief teaches us that our blessed God suffers us not to be tempted more than we may; how should a man ask such service? And therefore pray we to God for our pope Urban the sixth, that his old holy intent be not quenched by his enemies. And Christ, that may not lie, says that the enemies of a man been especially his home family; and this is sooth of men and fiends.

4. LAW AGAINST THE LOLLARDS.

2 Henry IV., c. 15, Statutes of the Realm, II, 125-128. Latin.

Whereas, it is shown to our sovereign lord the king on the behalf of the prelates and clergy of his realm of England in this present Parliament, that although the catholic faith builded upon Christ, and by his apostles and the holy church sufficiently determined, declared and approved, hath been hitherto by good and holy and most noble progenitors and predecessors of our sovereign lord the king in the said realm amongst all the realms of the world most devoutly observed, and the church of England by his said most noble progenitors and ancestors, to the honor of God and the whole realm aforesaid laudably endowed and in her rights and liberties sustained, without that the same faith or the said church was hurt or grievously oppressed, or else perturbed by any perverse doctrine or wicked, heretical, or erroneous opinions. Yet, nevertheless, divers false and perverse people of a certain new sect, of the faith of the sacraments of the church, and the authority of the same damnably thinking, and against the law of God and of the church usurping the office of preaching, do perversely and maliciously in divers places within the said realm, under the color of dissembled holiness, preach and teach these days openly and privily divers new doctrines, and wicked heretical and erroneous opinions contrary to the same faith and blessed determinations of the holy

church, and of such sect and wicked doctrine and opinions they make unlawful conventicles and confederacies, they hold and exercise schools, they make and write books, they do wickedly instruct and inform people, and as much as they may excite and stir them to sedition and insurrection, and make great strife and division among the people, and other enormities horrible to be heard daily do perpetrate and commit, in subversion of the said catholic faith and doctrine of the holy church, in diminution of divine worship, and also in destruction of the estate, rights, and liberties of the said church of England; by which sect and wicked and false preachings, doctrines, and opinions of the said false and perverse people, not only most greatest peril of the souls, but also many more other hurts, slanders, and perils, which God prohibit, might come to this realm, unless it be the more plentifully and speedily holpen by the king's majesty in this behalf; especially since the diocesans of the said realm cannot by their jurisdiction spiritual, without aid of the said royal majesty, sufficiently correct the said false and perverse people, nor refrain their malice, because the said false and perverse people do go from diocese to diocese and will not appear before the said diocesans, but the same diocesans and their jurisdiction spiritual, and the keys of the church with the censures of the same, do utterly condemn and despise; and so their wicked preachings and doctrines do from day to day continue and exercise to the utter destruction of all order and rule of right and reason. Upon which novelties and excesses above rehearsed, the prelates and clergy aforesaid, and also the Commons of the said realm being in the same Parliament, have prayed our sovereign lord the king that his royal highness would vouchsafe in the said Parliament to provide a convenient remedy. The same our sovereign lord the king, graciously considering the premises, and also the laudable steps of his said most noble progenitors and ancestors, for the conservation of the said catholic faith and sustentation of the said divine worship, and also the safeguard of the estate, rights and liberties of the said church of England, to the laud of God and merit of our said sovereign lord the king, and prosperity and honor of all his said realm, and for the eschewing of such dissensions, divisions, hurts, slanders, and perils, in time to come, and that this wicked sect, preachings, doctrines, and opinions, should from henceforth cease and be utterly destroyed; by the assent of the great lords and other noble persons of the said realm, being in the said Parliament, hath granted, stablished, and ordained, from henceforth firmly to be observed, that none within the said realm, or any other dominions subject to his royal majesty, presume to preach

openly or privily, without the license of the diocesan of the same place first required and obtained, curates in their own churches and persons hitherto privileged, and other of the canon law granted, only excepted; nor that none from henceforth anything preach, hold, teach, or instruct openly or privily, or make or write any book contrary to the catholic faith or determination of the holy church, nor of such sect and wicked doctrines and opinions shall make any conventicles, or in any wise hold or exercise schools; and also that none from henceforth in any wise favor such preacher or maker of any such and like conventicles, or persons holding or exercising schools, or making or writing such books, or so teaching, informing, or exciting the people, nor any of them maintain or in any wise sustain, and that all and singular having such books or any writings of such wicked doctrine and opinions, shall really with effect deliver or cause to be delivered all such books and writings to the diocesan of the same place within forty days from the time of the proclamation of this ordinance and statute.

And if any person or persons of whatsoever sex, estate, or condition that he or they be, from henceforth do or attempt against the said royal ordinance and statute aforesaid in the premises or any of them, or such books in the form aforesaid do not deliver, then the diocesan of the same place in his diocese such person or persons in this behalf defamed or evidently suspected and every of them may by the authority of the said ordinance and statute cause to be arrested and under safe custody in his prison to be detained till he or they of the articles laid to him or them in this behalf do canonically purge him or themselves, or else such wicked sect, preachings, doctrines and heretical and erroneous opinions do abjure, according as the laws of the church do demand and require.

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And if any person within the said realm and dominions, upon the said wicked preachings, doctrines, opinions, schools, and heretical and erroneous informations, or any of them be before the diocesan of the same place or his commissaries convicted by sentence, and the same wicked sect, preachings, doctrines and opinions, schools and informations, do refuse duly to abjure, or by the diocesan of the same place or his commissaries, after the abjuration made by the same person be pronounced relapsed, so that according to the holy canons he ought to be left to the secular court, (upon which credence shall be given to the diocesan of the same place or to his commissaries in this behalf), then the

sheriff of the county of the same place, and mayor and sheriffs, or sheriff, or mayor and bailiffs of the city, town, and borough of the same county next to the same diocesan or the said commissaries, shall be personally present in preferring of such sentences, when they by the same diocesan or his commissaries shall be required; and they the same persons and every of them, after such sentence promulgate shall receive, and them before the people in an high place cause to be burnt, that such punishment may strike fear into the minds of others, whereby no such wicked doctrine and heretical and erroneous opinions, nor their authors and fautors, iu the said realm and dominions, against the catholic faith, Christian law, and determination of the holy church, which God prohibit, be sustained or in any wise suffered in which all and singular the premises concerning the said ordinance and statute, the sheriffs, mayors, and bailiffs of the said counties, cities, boroughs and towns shall be attending, aiding, and supporting to the said diocesans and their commissaries.

IV. THE PEASANT REBELLION.

A general disintegration of society and increase of strained relations between social classes seems to have been in progress during the whole of the fourteenth century, especially after the Black Death. This is indicated by the increasing severity of the Statutes of Laborers, the repeated complaints of the Commons in Parliament, and by the statute of 1377, printed below. Its culmination was in the great rising of 1381. The immediate result was a close union of the king and the conservative classes. This brought about the withdrawal of the charters of manumission, the pardon of those who had violated the law in the putting down of the rebellion, and provision for the reissue of documents destroyed by violence. The supposed connection of the Lollards with the insurrection was utilized by the reactionary party in the church and by the king to increase the severity and the energy with which they were prosecuted.

1. LAW AGAINST EXCESSES OF THE VILLAINS.

1 Rich. II, c. 6, Statutes of the Realm, II, 2, 3.

At the grievous complaint of the lords and commons of the realm, as well men of holy church as other, made in this Parliament, of that in many lordships and parts of the realm of England, the villains and land tenants in villainage, who owe services and customs to their said lords, have now late withdrawn and do daily withdraw their services and customs due to their said lords; by comfort and procurement of other their counsellors, maintainers and abettors in the country, which have taken hire and profit of the said villains and land tenants by color of certain exemplifications made out of the book of Domesday of the

manors and towns where they have been dwelling, and by virtue of the same exemplifications and their evil interpretations of the same, they affirm them to be quit and utterly discharged of all manner of serfdom, due as well of their body as of their said tenures, and will not suffer any distress or other justice to be made upon them; but do menace the servants of their lords of life and member, and, which is more, gather themselves together in great routs, and agree by such confederacy, that every one shall aid other to resist their lords with strong hand; and much other harm they do in sundry ways, to the great damage of their said lords and evil example to others to begin such riots; so that if due remedy be not the rather provided upon the same rebels, greater mischief, which God prohibit, may thereof spring through the realm. It is ordained and established that the lords which feel themselves grieved, shall have special commission under the great seal to the justices of the peace, or to other sufficient persons, to inquire of all such rebels, and of their offences, and their counsellors, procurers, maintainers and abettors, and to imprison all those that shall be thereof indicted before them, as well for the time past as for the time to come, without delivering them out of prison by mainprise, bail or otherwise, without assent of their lords, till they be attainted or acquitted thereof; and that the same justices have power to hear and determine as well at the king's suit as at the suit of the party. * * *

And as to the said exemplifications, made and purchased as afore is said, which were caused to come in the Parliament, it is declared in the said Parliament that the same may not nor ought to avail, or hold place to the said villains or land tenants, as to the franchise of their bodies; nor to change the condition of their tenure and customs of old time due; nor to do prejudice to the said lords, to have their services and customs as they were wont of old time; and it is ordained that upon this declaration the said lords shall have letters patent under the great seal, as many and such as they shall need, if they the same require.

2. LETTER OF JOHN BALL TO THE COMMONS OF ESSEX.

Thomas Walsingham, Historia Anglicana, II., 33, 34; Rolls Series. English.

John Schep, som tyme Seynt Marie prest of York, and now of Colchester, greteth welle Johan Nameles, and Johan the Mullere, and Johan Cartere, and biddeth hem that thei ware of gyle in borugh, and stondeth togiddir in Goddis name, and biddeth Peres Ploughman go to his werke, and chastise welle Hobbe the robber, and taketh with you

Johan Trewman, and alle his felaws, and no mo, and loke scharpe you to on heved, and no mo.

Johan the Muller hath ygrownde smal, smal, smal;
The Kyngis sone of hevene shalle pay for alle.
Be ware or ye be wo,
Knoweth your frende fro youre foo,
Haveth ynowe, and seythe "Hoo;"
And do welle and bettre, and fleth synne,
And seketh pees, and holde therynne.
And so biddeth Johan Trewman and alle his felawes.

3. CHARTER OF MANUMISSION AND PARDON TO THE REBELS OF HERTFORDSHIRE.

Thomas Walsingham, Historia Anglicana, I., 467, Rolls Series. Latin.

Richard, by the grace of God, king of England and France, and lord of Ireland, to all his bailiffs and faithful ones, to whom these present letters shall come, greeting. Know that of our special grace, we have manumitted all of our lieges and each of our subjects and others of the county of Hertford; and them and each of them have made free from all bondage, and by these presents make them quit. And moreover we pardon our same lieges and subjects for all kinds of felonies, treasons, transgressions and extortions, however done or perpetrated by them or any of them, and also outlawry, if any shall have been promulgated on this account against them or any of them; and our most complete peace to them and each of them we concede in these matters In testimony of which thing we have caused these our letters to be made patent. Witness, myself, at London, on the fifteenth day of June, in the fourth year of our reign.

4. WITHDRAWAL OF MANUMISSIONS.

5 Rich. II, Stat. 1, c. 6. Statutes of the Realm, II, 20. Latin.

It is ordained that all manner of manumissions, obligations, releases, and other bonds made by compulsion, duress and threat, in the time of this last rumor and riot against the laws of the land and good faith shall be wholly quashed, annulled and holden for void; and they which have caused to be made or do yet withhold such manumissions, obligations, releases, bonds and other deeds, so made by duress, shall be sent before the king and his council, there to answer of their deed; and further, shall be constrained to make delivery and restitution of the said deeds to them that made the same against their good will, with the

copies of the same, if perchance they have thereof made any before in order to use or renew the effect of the same another time, if they may. And likewise, it is accorded that all entries made in lands or tenements, and also all feoffments made in the time of the same rumor by compulsion and menace, or otherwise with force of people, against the law, shall be void and holden for none. And the king straitly forbiddeth to all manner of people, upon pain of as much as they are able to forfeit to him in body and goods, that none from henceforth make nor begin again, in any manner, such riot and rumor, nor other like them. And if any do the same, and this be duly proved, it shall be done concerning him as of a traitor to the king and to his said realm.

5. PARDON OF THE KING TO THE LORDS.

5 Rich. II, Stat. 1, c. 5. Statutes of the Realm, II, 20.

Our sovereign lord the king, perceiving that many lords and gentlemen of his realm, and others with them in the rumor and insurrection of villains, and of other offenders, which now of late did traitorously rise by assemblies in outrageous numbers in divers parts of the realm, against God, good faith, and reason, and against the dignity of our sovereign lord the king and his crown, and the laws of his land, made divers punishments upon the said villains and other traitors, without due process of the law, and otherwise than the laws and usages of the realm required, although they did it of no malice prepense, but only to appease and cease the evident mischief, and considering the great diligence and loyalty of the lords and gentlemen in this behalf, which were not learned of the said laws and usages, and though at that time they had been learned, a man might not upon those punishments have tarried the process of the law, and that this they did with good intent, of their advice and of their good discretions, and willing therefore to do them grace, according as they have the same greatly deserved, of the assent aforesaid hath pardoned and released to the said lords and gentlemen, and all others being in their aid at the same deed, and to every of them, as much as to him thereof pertaineth, or to him and to his heirs may pertain ; so that hereafter for whatsoever thing that was done by them upon the said punishments in resistance, they shall never be impeached nor grieved in body, goods, nor their heritages and possessions, in any way, by our sovereign lord the king, his heirs or ministers, nor none other in time to come, but utterly shall be thereof quit for ever by this grant and statute without having thereof other special charter or pardon.

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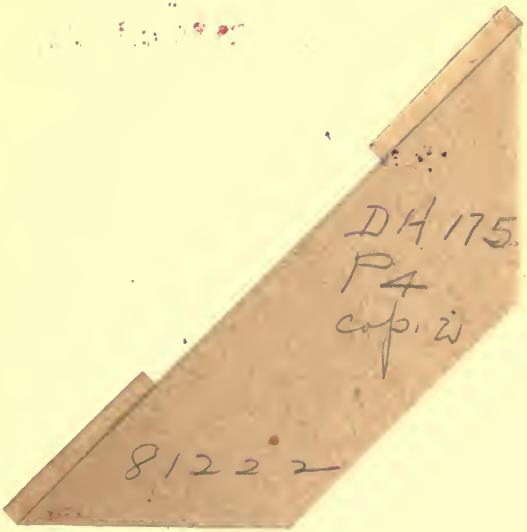
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